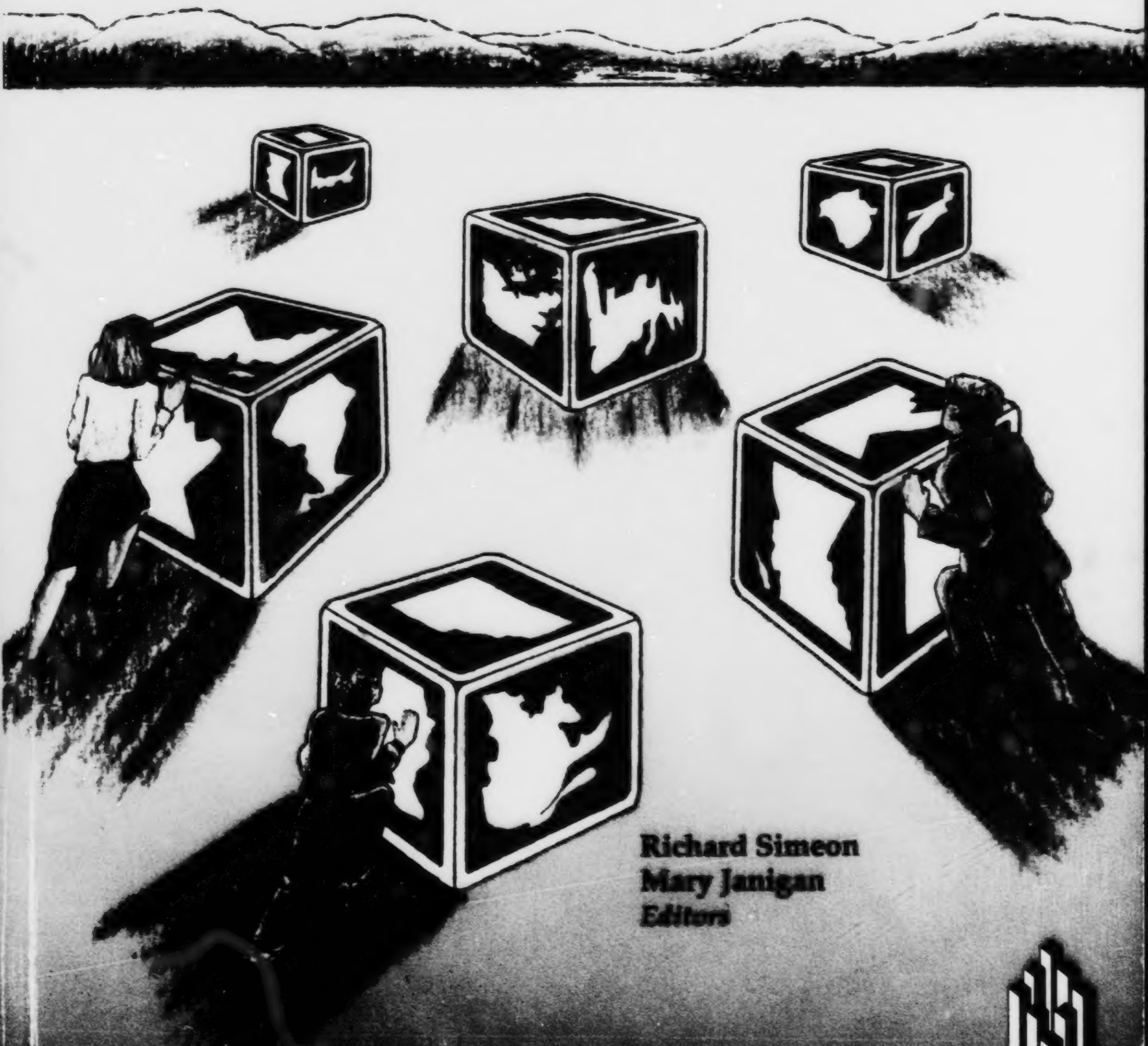
Toolkits and Building Blocks

Constructing a New Canada



Richard Simeon
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Editors

91-03888/

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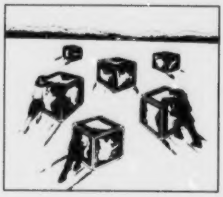

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C.D. Howe Institute publications are available from:

Renouf Publishing Company Limited,
1294 Algoma Road, Ottawa, Ontario K1B 3W8
(613) 741-4333; fax (613) 741-5439

and from Renouf's stores at:

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211 Yonge Street, Toronto (416) 363-3171

Institute publications are also available in microform from:

Micromedia Limited,
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For trade book orders, please contact:

McGraw-Hill Ryerson Limited,
300 Water Street, Whitby, Ontario L1N 9B6
(416) 430-5050

This book is printed on recycled, acid-free paper.

Canadian Cataloguing in Publication Data

Main entry under title:

Toolkits and building blocks : constructing a new Canada

(Policy study, ISSN 0832-7912 ; 14)
Proceedings of the conference entitled Imagining constitutional futures, held Nov. 17–18, 1990, in Toronto, Ont.
ISBN 0-88806-277-X

1. Canada - Constitutional law - Amendments - Congresses.
2. Federal government - Canada - Congresses.
I. Simeon, Richard, 1943– . II. Janigan, Mary. III. C.D. Howe Institute. IV. Series: Policy study (C.D. Howe Institute); no. 14.

JL65 1991.T66 1991 342.71'03 C91-094094-0

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Quotation with appropriate credit is permissible.
Printed in Canada, April 1991.

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FOREWORD

In their ability to envisage what kind of country they would like to shape, Quebecers are well ahead of other Canadians. With a referendum on sovereignty a likelihood in that province by the end of 1992, the rest of Canada must work fast to catch up. We are all now in the process of trying to forge a consensus, to generate a shared vision, to seek convergence where there is only divisiveness and doubt.

It was with this sense of urgency — and fully conscious of the enormity and significance of the task ahead — that the C.D. Howe Institute held a workshop, "Imagining Constitutional Futures", on November 17–18, 1990. The workshop brought together academics and experts representing many disciplines and most regions of the country — primarily outside of Quebec — to debate, to argue, to express their concerns and hopes, and simply to dream out loud.

This book is a record of their vigorous, insightful, even passionate discussion. Unlike the usual presentation of papers, this publication seeks to capture the liveliness and spontaneity of a debate among people who have thought deeply about the issues. The result, we hope, is a discussion that is both sophisticated and accessible to non-experts.

Although the workshop ended with more questions than answers, we believe that this brain-storming session, one of many taking place across the country, will provide readers with blueprints and concepts, processes and options, tradeoffs and compromises — in short, the toolkits and building blocks for constructing a new Canada.

For the C.D. Howe Institute, in its role as Canada's leading independent public policy research institution, this book represents the beginning of an important and intensive program of publications intended to help prepare Canadians for the difficult choices that lie ahead. It will be followed by a series of studies that will examine the crucial economic aspects of constitutional renewal. Subsequently, the Institute will review and build on work by other institutions in order to make the best use of the research that has been done on the constitutional issue. Finally, the Institute will seek to synthesize the many "constitutional futures" that emerge from the country-wide debate, and will attempt to offer public policy advice on the options.

Toolkits and Building Blocks was a complex undertaking. The editors — Richard Simeon and Mary Janigan — and I wish to thank the many people who have contributed to the publication. First, we would

like to thank the more than 50 workshop participants, who gave so generously of their time — and of their ideas and soul searching. We would also like to thank Tom Courchene, Director of the School of Policy Studies, Queen's University, who helped to devise the format of the discussion and who made certain that we touched all necessary bases; and David Cameron of the Department of Political Science, University of Toronto, who carefully reviewed the manuscript.

At the C.D. Howe Institute, we wish to thank Susan Knapp and Krystyna Maksalon, whose organizational skills helped to make the workshop a flawless event; Brenda Palmer, who helped prepare the manuscript; and Barry A. Norris, who provided the editing and desktop publishing.

As with all C.D. Howe Institute publications, the opinions expressed here do not necessarily reflect the views of the Institute's members or Board of Directors.

Thomas E. Kierans
President and
Chief Executive Officer

INTRODUCTION:

SETTING OUT THE FRAMEWORK

A Martian newly arrived in Canada would no doubt be utterly confused by the debate about this country's future. What is it all about? How did it get started? What history gives meaning to the current divisions? What larger social and economic context shapes the debate? Through what institutions and processes do these things get worked out? What is the agenda, and how do we find some order in it?

This introductory discussion tries to answer such questions. It is a road map to what follows, setting out the broad issues and alternatives that participants then explore in greater detail throughout the conference.

RICHARD SIMEON

Department of
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University of Toronto

We must consider all options

Everyone here has worked on constitutional questions for a long time. I hope that, by brain-storming together, we can clarify some of the options and advance the discussion. I do believe that the constitutional debate that is now upon us will no longer focus on incremental change within the existing federal system. Instead, we must start from the assumption that the task is nothing less than a rethinking of the fundamental bases of Canadian federalism. We must consider all options. We must break the mould. We must seek new ways of identifying issues and new language for discussing them. We are, in fact, at the point of what David Cameron [Department of Political Science, University of Toronto] calls "reconfederation".

Events in Quebec are moving fast. Radical proposals for change will soon be on the table. It is essential that Canadians outside Quebec be in a position to act positively — rather than simply to react. That means that the "rest of Canada" must think through its own desired future for the federation. It must also think through how it will act if Quebec moves toward a rapid restructuring of its relationship with the rest of the nation.

The lessons of Meech Lake

Let us start with an examination of the state of the nation following the collapse of the Meech Lake Accord in June 1990. What are the lessons of that experience? First, it demonstrated a sense of institutional and political impotence — that is, it demonstrated the inability of leaders and institutions to design and to implement a new set of accommodations within the federation. This is remarkable because conditions in 1987, when the accord was reached, seemed propitious: the federal government had support from all regions, and it was firmly committed to "national reconciliation"; a federalist Liberal government was in power in Quebec, while the Parti Québécois was in disarray; all premiers were committed to the priority of Quebec's constitutional concerns; federal-provincial wars were attenuated; all ten provincial governments, along with most of their opposition parties, supported the accord — as did the federal government and both federal opposition parties. Ratification appeared a mere formality. If an accommodation was impossible then, will it ever be possible?

Second, the Meech Lake experience demonstrated the immense difficulty of operating the amending formula that is in the 1982 *Constitution Act*. The "unanimity" rule — which applied to certain provisions — established an impossible hurdle. The "three-year" rule — which stated that legislatures must ratify amendments within three years — allowed opposition to mobilize; it virtually guaranteed the election of new governments that were not committed to the agreement. Nor has the system yet come to terms with the new procedure for legislative ratification — which was a small step toward democratizing the process. If the amending formula was unworkable for modest changes, what confidence can we have in its efficacy when fundamental changes are on the agenda?

A massive loss of legitimacy

Third, the Meech Lake experience demonstrated a massive loss of legitimacy for the process of "executive federalism". Social change has rendered obsolete the "elite accommodation" model for constitutional amendment. The constitution is now seen as the property of the "people" rather than the property of governments. The range of constitutional issues has broadened. There are more citizens and groups who feel they have a stake in the outcome. As well, the Meech Lake experience revealed a profound tension between the logic and requirements of federalism — with the necessity to make and keep intergovernmental agreements — and the logic and requirements of parliamentary government — with its emphasis on the accountability of governments to legislatures.

Fourth, the Meech Lake experience revealed the depth of disagreement over constitutional essentials. Many Canadians outside Quebec, for example, rejected the idea of "distinct society" status for one province as offensive to the concept of fairness embodied in the notion of "equal provinces". They also believed that the "distinct society" clause was offensive to the primacy of individual over group rights. In contrast, the recognition of Quebec's "distinct society" is that province's essential starting point for negotiations. That lack of consensus between Quebec and the rest of Canada extends to most major constitutional issues. The "three equalities" of equal citizens, equal provinces, and equal societies or nations were in profound tension.

Finally, the Meech Lake experience has prompted Quebec to demand stronger changes. In contrast, most English Canadians seem to be weary with constitutional debate — and indifferent, if not hostile, to its early revival.

The global context

Several global and North American developments have important implications for our constitutional discussions. First, as Canada's economic regions become inserted differentially into the global economy, their economic linkages with the outside world become more important relative to their linkages within Canada. With very important exceptions, such as the Ontario-Quebec economic relationship, the well-being of each region depends less and less on other regions. Thus, it becomes more difficult to sustain a single set of "national" policies. It may, for example, become harder to sustain the political commitment of the wealthier provinces to interregional redistribution. As well, free trade, North American integration, and declining links with the rest of Canada make it seem less risky for Quebec to contemplate independence. Much of the economic rationale for the division of powers at Confederation was predicated on the desire to create an east-west economy. What new rationale can be developed for federal authority? What different division of powers does that imply? If global pressures are decentralizing, should new Canadian constitutional arrangements reinforce those pressures — or should they resist them?

It can be argued that the traditional nation-state is at once too large and too small. Too large — because it cannot effectively respond to citizen concerns for participation and responsiveness. Too small — because its span of control is unable to encompass the scope of such contemporary problems as global warming. The implication is that authority should devolve simultaneously upward to supranational institutions and downward to local institutions.

There is a contrary view, however, that the implications of globalism may be centralizing. The increased significance of trade policy, for example, suggests that we should perhaps expand federal power. More generally, it can be argued that if Canada is to participate effectively in the global environment, it should speak with one voice. As well, perhaps the federal government should counteract the fragmenting effect of global forces. It is crucial that any reconsideration of federal arrangements should involve a rethinking of the economic purpose of the federal and the provincial governments.

The domestic context

We must also consider the implications of changes in Canadian domestic society. Those changes had much to do with the failure of Meech Lake — and they will play an even greater role in future constitutional discussions. Meech Lake focused on the "traditional" divisions within Canadian federalism: language, region, the roles of the federal and provincial governments, and intergovernmental relations. This emphasis did not provide an effective constitutional response to the newer dimensions of Canadian society — especially the 1982 Charter of Rights. The Charter added a third pillar to federalism and parliamentary government. It stimulated the tendency to focus on individual rights — as distinct from community or linguistic rights. Where it embodied collective rights, it gave relatively greater weight to collectivities based on gender and ethnicity rather than to collectivities based on language or region. This is the fundamental reason for the recent transformation of constitutional politics: the Charter has fostered the creation of new constitutional issues and identities. They include: the emergence of the women's movement and identity based on gender; the rapidly changing ethnic make-up of Canada; and the "politicization" of aboriginal identities. New constitutional arrangements must respond to these alternative definitions of the stakes of constitutional change.

Rethinking Canada: The political challenge

Politically, it will be immensely difficult for the federal government to direct the "rethinking" of the federation. The federal government is saddled with enormous debt and deficit problems. It will become more difficult, for example, for Ottawa to mitigate regional tensions through spending programs. Fiscal incapacity will, in turn, produce greater *de facto* decentralization as the federal government cuts back on regional transfers, and wealthier provinces attempt to fill the policy gaps.

The current Progressive Conservative government, with public support that is about equal to the prime interest rate, is in a weak position to lead. It is impossible to predict the shape of the next federal Parliament. The growth of the Reform Party and the Bloc Québécois raises the possibility of a five-party Parliament in which those two parties could hold the balance of power. That might further undermine Parliament's ability to forge a constitutional consensus.

We cannot rely on the provinces to fill that gap. The provinces' initiatives will inevitably focus on the needs and concerns of their own areas. They have little incentive to reflect or to build a national consensus. There is, in fact, the danger that it will be very difficult to reconcile the programs of each provincial constitutional commission. To add to the problem, Quebec starts from assumptions that are far different from those that are prevalent in the rest of Canada. That leaves us with the "old chestnut": who is to speak for the rest of Canada?

The amending process

Constitutional outcomes have much to do with constitutional processes. We must seek a process that is responsive to the multiple dimensions of Canadian diversity. That process must also be effective — that is, it must be able to implement accommodations. The existing legal framework for constitutional change has proven difficult to operate. Since amendments to 1982 formula, however, require unanimous agreement, it is likely that, at least initially, we will continue to work within the existing formula.

It is possible, nevertheless, to imagine many informal changes within this framework. The federal government or the provinces, for example, could develop a two-stage process in which they would agree to a constitutional agenda and then hold public consultations. Those consultations would precede each government's adoption of a firm position at First Ministers' conferences. This process would allow earlier and more effective citizen input. Governments could also form commissions to formulate constitutional options. One promising model is a joint federal-provincial commission that would allow early reconciliation of interests. If that commission were largely composed of elected representatives, it could also bridge the intergovernmental or parliamentary dimensions of the process at an earlier stage. Alternatively, if there were multiple commissions, there could be arrangements to meet together early in the process — thus constituting a *de facto* constituent assembly.

Bilateral or multilateral talks?

A fundamental principle of the existing amending procedure is the equality of provinces: each has a veto of important constitutional changes; each sits equally around the bargaining table. But provincial equality clashes directly with the binational view of Canada that sees Quebec on one side — and the rest of Canada on the other. Quebec spokesmen have asserted that this is the model that they wish to follow in future — that is, they wish to conduct bilateral negotiations with Ottawa.

Quebec could certainly negotiate nonconstitutional versions of "distinct status" on a bilateral basis. A limited set of constitutional amendments could also be made bilaterally under Section 43 of the *Constitution Act*. Other provinces might claim, however, that any amendment negotiated between Ottawa and Quebec also affected them — and thus required their consent. More promising is the provision for "opting out" of amendments that affect the division of powers. If the rest of Canada wanted a stronger federal presence in some areas, Quebec could "opt out", achieving special status indirectly.

In general, however, the existing amending procedures make it very difficult to consider the amendments that Quebec will likely seek. If those procedures continue to block amendments that have strong backing in Quebec, Quebec could be "pushed" toward a unilateral declaration of sovereignty.

Issues for negotiation

We must identify the central issues — and the associated conflicts, tensions, and likely political coalitions. The constitutional agenda is long. To the traditional issues — the division of powers, national institutions, and languages — we have added such outstanding issues as aboriginal rights, multiculturalism, and the role of cities. In all of them, we are far from consensus. In order to negotiate effectively, we must clarify the goals that we are seeking to achieve. What arrangements are likely to promote those goals? What arrangements are likely to act as a barrier? With respect to the division of powers, for example, we must ask what roles government can play or ought to play, given the global economy and domestic society. Which roles are best played by each level of government?

Models for the future

Finally, we must consider the competing models for the future. We need to assess each model in terms of a common set of questions:

- What image of the fundamental characteristics of Canadian society and economy do they embody?
- What conception of the role of contemporary government do they entail? What division of labor among governments do they suggest?
- To what extent do they reconcile the tensions between parliamentarism, federalism, and the Charter?
- What response to the current tensions within Canadian society do they make?
- To what degree do they embody a new "social contract" between Quebec and the rest of Canada?
- What is the coalition of political forces that is likely to be mobilized in support of — or in opposition to — each model?
- What processes for decision are likely to increase or decrease the probability of acceptance? What mechanism can be used to build a consensus?

Federalism or beyond

The fundamental dividing line is between those models that envisage a continuation of the federal system and those that envisage some form of sovereignty for one or more provinces. Let us begin with the federalist models.

The status quo. We continue to muddle through. New accommodations come about through informal agreements and nonconstitutional devices. This model would probably be unacceptable to Quebec and perhaps to important elements in the West. It remains the default option — if no agreement can be found. Past history has shown, however, that much accommodation can be reached without formal constitutional change.

Asymmetrical federalism. Quebec would assume constitutional powers, such as the power to preserve its linguistic make-up, that would be different from the other provinces' powers. The key objection is that "special status" clashes with the principle of provincial equality. But special status would also permit non-Quebecers to strengthen the role of the federal government in relation to their provinces if they wished.

General decentralization. All provinces would take over the increased powers that Quebec seeks. This model maintains symmetry. But the price might be a federal government that is weaker than many Canadians outside Quebec would considerable desirable.

Centralization. Little attention has been paid to this alternative in recent years. Yet the debate on the "spending power" provisions in the Meech Lake Accord suggests that a significant number of Canadians see the federal government as the primary expression of national priorities and national standards.

Rebalancing of the federation. We could combine elements of centralization and decentralization. Powers would be traded back and forth in light of a new conception of the division of powers.

Sovereignty models

Then there are the sovereignty models.

Sovereignty-association. This is the original Parti Québécois model, in which Quebec would be a fully sovereign country. The rest of Canada and Quebec would form a two-unit confederal system, establishing institutions to manage shared powers, primarily in the economic field. The main objection to this model is that a two-unit confederation would be inherently unstable or paralyzed; it would also be difficult for the rest of Canada to accept equality of influence over major decisions, given the difference in size between the two units.

Full Quebec independence. That would entail sovereignty without institutions of association. There would be a clear break between Quebec and the rest of Canada.

Sovereignty-association for all. This would reconstitute Canada as a truly confederal system in which each unit — whether ten provinces or reconstituted regions — would be sovereign. The federal government would exercise only delegated powers.

"Beggar-thy-neighbor" independence. Quebec unilaterally separates, amidst recrimination and retaliation on all sides, possibly with high economic and social costs.

Underlying values are crucial

In summary, I stress that the underlying values are crucial to our discussion. If we believe that we can find new accommodation within the framework of federalism, we must be clear about our essential purposes. What do all Canadians gain through continuation of the federation? If we decide that the time for renewal is past, we must determine the values that we want to preserve. Can we design post-independence relationships that preserve them?

In other words, when we reassess federalism, we should not focus on the sanctity of the institutions themselves. Instead, we should see institutions as mere instruments to achieve such values as citizen rights, the protection of minorities, or the maintenance of the welfare state. We should be open to new institutional forms. We must break away from the language of grievance toward a language of common purpose. We must break away from models that have become loaded symbols toward more fluid processes for change. We must remember the values that we cherish. Let the discussion begin.

SESSION ONE

THE SOCIAL AND ECONOMIC CONTEXT FOR CONSTITUTIONAL FUTURES

Any attempt to design new constitutional structures must reflect the values, identities, and needs of Canada's rapidly changing society and economy if we are to break the impasse.

SESSION ONE:

THE SOCIAL AND ECONOMIC CONTEXT FOR CONSTITUTIONAL FUTURES

A fundamental requirement of a constitution is that it reflect the underlying values, identities, and needs of the citizens that it is designed to serve. Therefore, any discussion of the strengths and weaknesses of Canada's existing system — and, even more, any attempt to design new structures — must begin with an exploration of these forces. Traditionally, constitutional discussion has concentrated on the classic issues of federalism: national versus regional identities, French-English relations, and the sharing of responsibilities among governments. These were the central concerns of the Meech Lake Accord.

Constitutional discussions must reflect a changed Canadian society

One problem with the accord was that it did not sufficiently take into account broader changes in Canadian society. These new forces operate at several levels. They include: social and demographic change in Canada, including the mobilization of Canada's native peoples and the rapidly changing ethnic makeup of our central cities; changes in the Canadian economy, including the increasing orientation of Canadian regions to North American and global markets with a relative decline in the strength of east-west linkages within Canada; and changes in the global setting, which raise fundamental questions about the role of the nation-state.

All of these changes are manifested politically in the goals, values, and identities of citizens. The result is that the constitutional agenda has expanded exponentially. It remains centrally concerned with languages and provinces. But any solution to those issues must take into account these other changes — or it will risk the fate of the Meech Lake Accord.

The conference begins, therefore, with an exploration of the global economic, social, and attitudinal raw materials with which constitutionmakers must work.

CHAIR:

THOMAS J. COURCHENE

School of Policy Studies, Queen's University

Canada and the world: Inextricably intertwined

Changes in Canada's domestic society and in its global environment are inextricably intertwined, just as social, economic, and political factors can never be disentangled. I suspect that this will become abundantly evident in the following discussion. The problem is: Where to begin? Do we move from the global environment to its domestic implications or from the domestic setting to its international linkages? We will start with the most familiar: What is going on in Canada? And what implications do these developments hold for the makers of constitutions?

THE DOMESTIC SETTING: OUR CHANGING SOCIAL AND DEMOGRAPHIC MAKEUP

Michael Adams draws on his extensive polling experience to show that the constitutional debate too often responds to the "old Canada" and not enough to newly emerging values and social structures. His observations elicit agreement that the Canada of two founding nations must now face a host of competing claims.

MICHAEL ADAMS
President,
Environics Research Group Ltd.

George-Étienne Cartier, one of our Fathers of Confederation, referred to Canada as a "political nationality." The four British colonies, he observed, lacked the other elements that usually bind people together — elements such as religion, language, culture, or a common vision for the future.

A successful society

Yet Canada has been successful by most objective criteria. According to a United Nations Development Program survey last year, Canada ranks fifth in terms of the quality of life of its citizens as measured by life expectancy, adult literacy, and purchasing power. Our rivals south of the border rank 19th on this broader measure of a successful society.

As well, although Canadians are critical of the political institutions that helped to create this successful society and although our Prime Minister is the most unpopular leader in the democratic world, our disillusionment with politics and politicians has not led to disengagement from the system. Canadians still believe that there are solutions at the ballot box. For example, between the 1960 and 1988 presidential elections, voter participation in the United States declined 13 points — from 63 percent to 50 percent. During roughly the same period in Canada, voter turnout declined only four points, from 79 percent in 1962 to 75 percent in 1988. Nevertheless, Canadians have changed in ways that will exacerbate the centrifugal forces observed by Cartier and that will challenge the political institutions.

Our changing ethnic makeup

Canada's two founding peoples are losing their demographic clout. Most immigrants now come from non-European, non-Caucasian sources. According to the 1871 census, 92 percent of Canadians were of British or French descent. By 1986, that proportion had declined to 58 percent. The British Isles account for only 6 percent of current immigration to Canada.

Although immigration from France dwindled after the fall of New France in 1763, high fertility rates in Quebec during most of the century following Confederation helped to keep the proportion of francophones in Canada at about 30 percent. Since the early 1960s, however, a revolution in social values has resulted in a reduction in the Canadian fertility rate. That rate is 1.7 children per woman, which is well below the replacement level of 2.1 children and which is among the lowest in the world. Among francophones, the rate has dropped even more dramatically: from 4.0 in 1957 to 1.4 in 1986. Although Statistics Canada reports that there were 392,200 births in 1989, the highest in 25 years, there is no evidence that this is more than an anomaly in an inexorable downward trend. This latest report confirms that the fertility rate is stagnant. There has been a slight increase in Quebec — although that province still has the lowest rate in Canada.

At current rates of fertility, demographers have projected that the last "European" Canadian will die in 2786, which should finally end the "Charter group" debate. Although Quebec's widespread awareness of its demographic dilemma is adding greatly to its sense of insecurity, both Charter groups are clearly on the demographic defensive.

The values of the baby boomers

We must also take account of the baby boom generation. Canadian social values are being transformed by the growing power of this generation. These 8 million Canadians, born between 1947 and 1966, transformed the look of the marketplace in the 1970s and the 1980s. They will be moving into leadership positions in the 1990s.

Boomers differ from previous generations in that they are more than twice as likely as their parents to have a university degree. They are the first generation to have been raised in front of a television set and the first to have grown up in an era of presumed prosperity. Their values are different. More egalitarian and less patriarchal than their parents, they question, rather than defer to, authority. They reject ideology, religious or secular. They are individualistic, self-centered, and want to be in control of their lives. They like to experiment with new ideas, to ask "why not" and "what if." Feminism is their most profound social legacy. Rock and roll may be a close second.

This is the generation that most enthusiastically embraces the environmental ethic that will define the social agenda of the 1990s. This is the generation that is most disillusioned with Canada's politicians and political institutions and most likely to support new processes for consensus building and decisionmaking. These people would not be honored to have Senator John Buchanan over to dinner.

The declining center and growing provincialism

Tracking data from Environics reveal that Canadian attitudes have assumed an increasingly centrifugal nature over the past 15 years. The 1980s witnessed a decline in the importance that Canadians attach to a number of traditional symbols of Canadian identity, such as the national anthem, the office of the Prime Minister, multiculturalism, bilingualism, the Governor-General, the Queen, even hockey.

Furthermore, there has been a significant increase in regional identification. Between 1980 and 1990, Environics found a 13-point drop in the proportion who feel more like a citizen of Canada than a citizen of their province: from 62 percent in 1980 to 49 percent, less than a majority, in 1990. Our latest Focus Canada survey reported that Canadians increasingly support provincial jurisdiction in 15 out of 19 areas — many of which we have tracked since 1979. That same survey found that a plurality of Canadians generally want the provinces to have greater powers. Only 15 percent say that the federal government should have more power.

Regional disaffection

Environics' polling also reveals clear evidence of regional alienation. In response to questions on "chequebook federalism", 46 percent of those surveyed in May 1990 said that they feel their province does not receive its fair share of federal spending. Only in Ontario did a large majority of Canadians express satisfaction with their share of the national pie. In the remaining regions — Quebec, the Atlantic provinces, the Prairies, and British Columbia — majorities felt that federalism had shortchanged their province.

The January 1990 Focus Canada survey found that almost nine in ten Westerners still feel that "the West gets ignored in national politics because the political parties depend mostly on voters in Quebec and Ontario"; half feel that "the Western provinces have sufficient resources and industry to survive without the rest of Canada"; and four in ten agree that the West "gets so few benefits from being a part of Canada that they might as well go it on their own."

In Quebec, alienation is expressed in the form of growing support for sovereignty-association, which increased from 40 percent in the May 1980 referendum to 60 percent in May 1990. More specifically, support for sovereignty-association has increased 12 points since January 1990. CROP's latest poll puts the level at 64 percent.

Declining support for bilingualism

Canadians also continue to be deeply divided on the issue of the country's two official languages. Since 1977, only about one-half of Canadians have supported the policy of official bilingualism for all of

Canada. Only in Quebec is there solid majority support — eight in ten — for national bilingualism. National support for provincial bilingualism, which started out at the majority level in 1977, has now dropped to below 50 percent. Only in Quebec does a majority still support provincial bilingualism. Even here, support has dropped dramatically: from nine in ten in 1977 to six in ten in April 1990.

When asked to choose between a bilingual Canada in which French and English are spoken across the country or a Canada in which French is spoken in Quebec and English elsewhere, Canadians are divided right down the middle: just under one-half support each point of view. Only in Quebec and among francophones and university graduates is there majority support for the "Trudeau vision" of a bilingual Canada.

Meech Lake got it wrong

Those centrifugal forces acted in tandem with widespread opposition to Meech Lake. Post-Meech surveys indicate that Canadians do not mourn its demise. Our most recent Focus Canada survey reported in July 1990 that a majority of Canadians oppose the accord; only a quarter approve of the "companion accord" that was signed in June 1990 at the end of the infamous seven-day First Ministers' Conference; six in ten disapprove of the process by which the deal was negotiated. Prior Environics polling, however, had shown that many elements of the Meech Lake Accord were generally popular: provincial nomination of Supreme Court judges and senators, for example, and federal-provincial immigration agreements. Our May 1990 survey showed that support for the accord increased substantially, from 35 to 48 percent, when the idea of Senate reform was included. We interpret this, together with a host of other survey measures, as clear evidence of Canadians' desire for significant changes in the country's political system.

PATRICK MONAHAN

Director, Centre for Public Law
and Public Policy, York University

The risk of unintended consequences

I want to make the distinction between perceptions and underlying social realities. I also want to distinguish between ordinary politics, what we call conventional politics, and constitutionmaking. It seems to me that the initial assumption has been: "There are these forces and changes. Therefore we must revise our constitution." There is not necessarily any connection between the two things. What is fundamentally wrong about our constitutional structures? When we open up our constitutional structures, it is beyond anyone's capability to predict what will happen. Instead, it is absolutely clear that when you change the fundamental ordering of institutions, the unintended consequences are likely to be very great. I do not know where the support is in Canada for these dislocations.

MARTIN ABRAMS
Assistant Secretary to the Cabinet,
Federal-Provincial Relations Office

Do we really know what people think about federal and provincial powers?

Michael Adams said that the public supports a stronger provincial role in areas of federal jurisdiction. But does the public also support a strong federal role in areas of provincial jurisdiction? Does the public have a clear definition of what the appropriate federal-provincial roles are or does the public view change according to the priority of the issue? When Prime Minister Mulroney made his strong statement on education, for example, he got a lot of public support. In effect, the public felt that it was in the national interest to have a strong federal role in education — even though education is the "holy of holies" in the case for strong provincial jurisdiction. But that public attitude changed. I wonder if the issue of federal-provincial roles in the environment has also changed in the public mind.

MICHAEL ADAMS
President,
Environics Research Group Ltd.

Ottawa cannot deliver the goods anymore

A generation of Canadians has grown up with the growing power of the state. We put together a social safety net in the 1960s and 1970s — and there were high expectations that the federal state could keep delivering the goodies. People are now aware of the national deficit. They know that a lot of their money is paying interest on it. Canada cannot deliver the goods anymore — and there is a lot of resentment about that. The state that provided our quality of life now looks as if it is going out of business. It has really lost a lot of credibility.

And Canadians feel closer to the provinces

As well, the preference in most areas is for provincial jurisdiction because people feel that provincial politicians are closer to them. They feel that they can have some influence on public policy. They feel that once they elect people to Ottawa, their preferences get lost in all the national tradeoffs. Still, there are areas where preference for federal jurisdiction is very high. The environment, for example, comes at the top of that list — because people understand that the environment is a global problem and the largest political entity that they can think of is the federal government. People do not understand a lot about economic policy. But they have a sense that most economic policy, national defense, and several other areas ought to be in Ottawa.

RICHARD SIMEON
Department of Political Science,
University of Toronto

We need more clarification about attitudes to federal and provincial powers. After all, a substantial part of the Meech Lake opposition

People send mixed messages about sharing responsibility

included people who were concerned about the erosion of federal spending power, people who argued that the federal government was giving away too much power to the provinces, and people who were concerned about the loss of national standards. There appears to be a contradiction in the evidence.

J. PETER MEEKISON
Vice-President, Academic,
University of Alberta

Every time that I ask my students which government should do what, I find that everything goes to the federal government. Garbage collection remains with the provinces. This is in Alberta — and I have taught only baby boomers. Perhaps what we are missing is the fact that people do not really care which government is responsible for issues that concern them, such as the environment. They just want those issues dealt with.

IRENE IP
Senior Policy Analyst,
C.D. Howe Institute

Divided baby boomers

People should not look at the baby boomers as one mass when there are two groups. The older ones were teenagers when the Beatles arrived on the scene. The younger ones were in diapers. The younger ones have had to scramble for everything because the older ones have taken it all away. So the values of those groups are probably quite different.

DESMOND MORTON
Principal, Erindale College,
University of Toronto

Regions and provinces are not necessarily the same

We should understand that the regions are more complicated than we think. We are going to have difficulty in defining them because there are subprovincial regions — and many of these subprovincial regions have very different perceptions. Look across every province: most of British Columbia distrusts the lower mainland; Cape Breton hates Halifax. Even in "La Belle Province", the folks in Quebec City do not necessarily like Montrealers.

IAN STEWART
Advisor

A plea for a better-informed public

First, if one has got to collect taxes and to finance government, it is not clear to me that it ought to be contingent on the level of knowledge among the population about what government does what to whom. Second, the communications age ought to make it easier to provide the population with information about what level of government receives their taxes and what those taxes purchase. Third, it is an enormous public policy failure that insufficient attention has been paid to mechanisms in institutions that could measure what is in the public eye. One could discover the public's prejudices. One could then engender responsible public discussion with the facts. [U.S. Supreme Court Justice] Oliver Wendell Holmes once said, "I don't mind paying taxes because I buy civilization with my taxes." Is it a pipe dream to believe that it is possible to address public ignorance? Is it possible, for example, to correct the notion that every province is a net payer into the system?

MICHAEL ADAMS
President,
Environics Research Group Ltd.

Summary

Let me try to answer everyone's questions. First, the regions of this country are complex and the people of this country are complex. We all have elements of the Canadian personality within ourselves. Part of us is emotional; part of us is rational. Part of us is traditional; part of us is postmodern. Let me give you an example: two-thirds of Quebecers tell us that they want sovereignty-association with the rest of Canada; many of these same people believe that sovereignty-association can be accomplished within a united Canada. "Sovereignty-association" has become a statement of collective self-respect. But these same people do not see a contradiction between their desire for autonomy and their desire to remain within Canada. The point is that there are complexities within regions and within people. Pollsters must attempt to understand that.

Meech Lake? People did not understand a lot about Meech Lake. But the "distinct society" clause was the "hot point." That was the thing that turned people against Meech Lake. When we told people about most of the elements of the agreement, they liked them. They viewed the "distinct society" clause, however, as giving in to Quebec. The clause became a "hot point" for a lot of other issues related to language policy.

Finally, can we educate people? Yes — although we have a very educated people. People spend 30, 40, 50 hours per week attending to television, radio, newspapers, or magazines. Most of us attend to all four. We are, in fact, a cybernetic society in the sense that we are all little computers, thinking strategically, adjusting our behavior.

THE DOMESTIC POLITICAL ECONOMY

John McDougall weaves together the economic, political, and cultural forces that underlie the competing visions of Canadian federalism. He asks the fundamental question: Does the basis exist for the continuation and growth of the Canadian national project? His analysis provokes heated discussion, prompting some participants to conclude that the country is so fragmented that the will to share is eroding. His paper provides the bridge between the discussion of the domestic setting and the discussion of the global environment.

JOHN McDOUGALL
Department of Political Science,
University of Western Ontario

Canada's social and economic characteristics

I want to construct a set of criteria against which we can measure the feasibility of all constitutional options. I begin with several social and economic characteristics of Canada.

There is Canada's economic geography, which can be summed up as entrenched regionalism and low levels of trans-Canadian interaction relative to continental interaction.

There is Canada's continuing heavy reliance on natural resource exports, including agriculture exports, for a substantial portion of its foreign-exchange earnings and national income.

There are Canada's high levels of socio-economic integration with the United States including:

- the high incidence of parent-subsidiary relations, particularly among our largest and most profitable manufacturing and extractive industries;
- the enormous range and number of Canadian economic, social, cultural, and professional networks that function essentially as marginal extensions of systems centered in the United States;
- the unparalleled penetration of Canadian society by the U.S. mass media, including prime-time television, commercial and cassette movies, popular music, and magazines.

How do these characteristics relate to the design of a feasible constitution for Canada? With respect to the first two characteristics, entrenched regionalism and resource dependency, Canada's contemporary constitutionmakers face conditions that have changed little from those that confronted the original framers of the *British North America Act*. Unfortunately, the third condition of "Americanization" has eroded the capacity of Canadians to sustain a vital national existence in the face of the first two conditions.

Vision and will

Canadians no longer seem able to imagine individually, let alone share nationally, a mobilizing vision that has the unifying force of the original transcontinental railroad project. Even if one were discovered or somehow invented, Canadians could no longer be persuaded to pay a price to achieve it. It is important to remember that the framers of the *British North America Act* did not design a constitution — and then proceed to build a railway. Rather, they framed a constitution, in part, so that they could undertake the railway. The national deal was struck so that the railway could be built.

Thus the BNA Act was an act of political will on the part of an identifiable group of political and economic agents. These agents did not possess the will to create a highly unified country. But they did have the will to create the political structure that appeared necessary to sustain what was essentially an economic project. From the standpoint of Canadian unity, their key contribution to nationhood was the fact that their system was built around the economic enterprise of exporting Canadian staples to trans-Atlantic markets. The sequence of staple exports — furs, then square timbers, then grains — had the virtue of uniting Canada in a west-to-east direction as a necessary adjunct of moving those goods to their ultimate European markets.

The problem for Canada throughout the 20th century has been that the mix of exportable staples has changed. The reduced European grain trade is all that is left of the original trans-Atlantic pattern. The exploitation of "modern staples" — metals, hydrocarbons, and forest products — has been predicated primarily on exports to the U.S. market. Thus those "modern staples" have contributed to a north-south trade axis, not to an east-west trade axis. They have accentuated Canada's regional fragmentation by integrating parts of Canada with their adjacent regions in the United States. Moreover, the political and economic effects of those shifting trade patterns were amplified by a major reorientation of investment patterns over the past 80 years: foreign investment shifted from being predominantly portfolio and British to being predominantly direct and U.S.

These simple but stark changes in Canada's fundamental economic relationships contradict the effusions of Canada's so-called nationalists over the Free Trade Agreement. The FTA represents the culmination, not the cause, of Canada-United States economic integration with its attendant atrophy of east-west ties in favor of north-south ties. As well, a mild new version of the staples model is driving an even wider wedge between Central and Western Canada: Alberta and British Columbia are increasingly exporting resources such as coal and wood products to Japan and the Pacific Rim while importing more capital and manufactured goods from these countries. Canada's economic transactions are thus becoming less supportive of integrated national political processes.

Communications and cultural linkages

It is no more encouraging to move from the transactions dimension to communications. Here, on the dimension of socio-cultural communication, we are concerned with two forces. One is communications — that is, the exchange of ideas through various mass media. The other is the less visible but generally familiar operation of occupational networks and private associations.

These forces have two political consequences. First, they make their own contribution to the suppression of east-west transactions in favor of north-south transactions. An important aspect of cultural subsystems, for example, is that the Canadian element is merely a marginal extension of the particular U.S. subsystem. As the result, the vertical integration of various subcultures with their counterparts in the United States frustrates their horizontal integration across Canada. Second, those forces are eroding Canada's sense of a distinct identity. Cultural industries, especially popular cultural industries, are dominated by the technostructure formed by oligopolistic corporations. To achieve nationwide recognition, Canadian artists must move from the cultural market system of their local community or region to the "cultural technostructure". And, of course, the cultural technostructure is controlled in the United States. These consequences, in turn, are dissolving the strength of Canada's political will to absorb the costs of promoting and maintaining an autonomous national existence.

This is not to say that Canadians do not want to remain distinct. In fact, the wish *not* to become Americans may be one of the few things that Canadians have in common. But that wish to remain "other than American" does not guarantee that Canadians can articulate any common understanding of what it means to be Canadian. It also does not guarantee that Canadians will avoid the fate of gradually becoming American without realizing it, despite their conscious determination to avoid that fate.

We increasingly lack political will and a "national project". The uniting of the 13 colonies was an instance of willful nationbuilding on the part of a distinct, interconnected elite as well as the "natural" evolution to statehood of an increasingly integrated American community. The Canadian version of the same endeavor was, from the start, more heavily weighted toward the pole of political will rather than the pole of community. Now, of course, we increasingly lack both political will and community. This is not a foundation on which institutional experimentation is likely to yield lasting structures.

Needed: Political will and a national project

The implications for Canada's constitutional future can be seen as either central or marginal — depending on the degree of severity that one attributes to those underlying features. I personally view the sociocultural weaknesses of the Canadian community as nearly fatal. As a result, I tend to stress the central implications.

There are two such implications. First, the very low levels of political will among both the elite and mass of Canadians translate into a need, and perhaps a necessity, to keep constitutional changes as few and as limited as possible. My arguments probably tend to favor "sovereignty-association among five regions". But my fear is that so much disintegration has already occurred that the country would not hold together during an attempt to get there. While these forces in themselves will not necessarily tear the country apart, they will prevent its recomposition if we undertake a major departure from the status quo.

Second, different rates of North American assimilation are likely to accelerate the widening gap between Quebec and societies in the rest of Canada. As Canada becomes more indistinguishable from the United States, it will be more difficult for Quebec to see why it should not "take its Americanization straight" and focus exclusively on Washington and its trading partners among the U.S. states.

For those who believe that I have painted too pessimistic a picture, there are still small political changes that they may make to halt the drift toward further Americanization. If the goal is a distinct Canadian popular culture, it would seem vital that Canada foster Canadian-controlled and Canadian-centered vehicles for the nationwide dissemination of Canadian culture. Something must be done to aggregate the activity in Canada's cultural system as an alternative to the U.S. cultural technostructure. We must also integrate Canadian cultural subsystems nationally rather than continentally.

PAUL BOOTHE
Department of Economics,
University of Alberta

Federalism and the economic roles of government: Little left for Ottawa

Canada's east-west orientation is being weakened. One of the implications is that the western and eastern parts of the country really have little connection — except through redistribution. Indeed, if you do economic analysis, the current system does not make a lot of sense.

Consider the three roles of government: *allocation*, or the provision of public goods and services as efficiently as possible; *stabilization*, or the promulgation of policies to attain low and stable rates of unemployment and inflation; and *distribution*, or the promulgation of policies to ensure more equitable distribution across individuals or regions. It is clear that both federal and provincial levels of government now perform all three functions.

What are some of the perceived problems that might cause us to change the design of the current system? Under allocation, there are tradeoffs between two forces. On the one hand, we can justify federal allocation of goods and services on the grounds that there can be significant economies of scale in the production of goods and services at the federal level. Consider, for example, defense and foreign relations. As well, there can exist significant interprovincial "spillovers" that should be internalized for efficiency. On the other hand, we can justify provincial allocation of goods and services on the grounds that citizens have different preferences. That is, they demand different bundles of goods and services. As well, another justification for provincial allocation is that public goods and services are allocated most efficiently when their costs are borne by those who benefit from them. We have a real problem with our system: there is no support for cutting spending because people do not believe that they are the ones who are paying for that spending. The belief remains that it is always another region that is picking up the tab.

Regional stabilization policies

The stabilization policies that are appropriate for one province may be inappropriate for another province — given their different endowments and productive capital. Thus, unless the fluctuations among provincial economies are highly correlated, national stabilization is undesirable. As well, the constraints imposed on the federal government by the large and growing federal debt indicate that there is not much room to maneuver on the national stabilization front. Stabilization also includes monetary policy. It is widely accepted, however, that the Canadian federation is far from approaching an optimal currency area. As

David Laidler [Scholar-in-Residence, C.D. Howe Institute, and Department of Economics, University of Western Ontario] observed recently, the West is not in the same optimal currency area as other parts of the country. So the arguments in favor of provincial stabilization of fiscal policy also apply to monetary policy.

Can redistribution survive?

Distribution is the one function that clearly transcends provincial boundaries. The federal government redistributes income across provinces and individuals; the provinces only redistribute income across individuals. Tom Courchene [School of Policy Studies, Queen's University] has argued that federal redistribution policies have impeded economic adjustment, promoted inefficiency, and even trapped recipients in a cycle of dependency. There may be some economic reasons for redistribution other than simple equalization. But redistribution through such programs as regional development and unemployment insurance is so clearly inefficient that I doubt that there remains much support for these measures at the national level.

DONNA DASKO
Vice-President,
Environics Research Group Ltd.

Canada's national identity is still strong

It is certainly true that regional identities in Canada have increased. But it is also true that there is a very strong Canadian identity. I believe that this Canadian identity is more than residual — and that it comes from our differences with the United States. When Canadians are confronted with the possibility of joining the United States, the vast majority reject it: only 10 to 15 percent of Canadians would actually consider that option. When we talk to Canadians about the breakup of Canada, it is very clear that even if Quebec leaves, the rest of the country still sees a "Canada" left. They do not want to go off on their own as separate provinces or even separate regions. Also, Canadians view Canada as superior to the United States. Canadians think that we have a better quality of life, a better standard of living. They think that we are better on about 15 out of 17 dimensions. Canadians still see themselves very strongly as a nation.

BRYNE B. PURCHASE
Senior Policy Analyst,
C.D. Howe Institute

Regions across the border

I would suggest that all of North America, not just Canada, can be carved into several distinct economic regions, often based on a particular staple. The Great Lakes states, including Ontario, for example, share a common set of economic problems and, potentially, could share similar political responses. So could the Prairie provinces and states. So could British Columbia and Washington state. The question is whether these subnational regional coalitions will continue to develop and, if so, in what way?

ERIC KIERANS
Former federal and
Quebec cabinet minister

Regions are going to become increasingly important. Free trade has truly changed the nature of this country beyond all recognition. It has turned the country on its axis: it is no longer an east-west nation. We in the Maritimes know that Ontario will no longer be able to afford the style of living to which we have become accustomed. There is no question about that: Ontario is going to be fighting for its life with the northeast and the midwest of the United States. Eventually Ontario is going to have the same kind of personal and corporate income tax rates that those U.S. regions have.

Each of the five regions of this country is going to be looking towards its neighbors in the south. We are going to return to the situation of the late 1890s when we had a surge of Canada's best and brightest minds to the south because that was where the opportunities were. I would not dream of starting a business in Canada now. I would go to Pennsylvania where 90 percent of my market would be. In future, we will pay less attention to what the other Canadian regions are doing because the other regions will pay less attention to us.

DAVID LAIDLER
Scholar-in-Residence, C.D. Howe Institute, and
Department of Economics, University of Western Ontario

The mismatch of taxing and spending

The provincial governments in this country have become more and more insistent that the federal government provide funds. Provincial governments have whined like spoiled brats whenever there has been a possibility of cutbacks. But, simultaneously, they have sabotaged the capacity of the federal government to collect the taxes from which to provide the transfers to them. Consider the provinces' destructive refusal to cooperate in the GST. We must realize that these provincial tendencies are leading to a federal fiscal regime that is not sustainable. Consider the deficit. That realization, in turn, presents an enormously powerful argument for decentralizing the fiscal regime. We should put the responsibility for collecting the taxes in the hands of the politicians who actually make the expenditures.

IRENE IP
Senior Policy Analyst,
C.D. Howe Institute

We must ask a question: Do we want the federal government to continue to provide fiscal transfers to pay for provincial programs? Many of the programs that matter to Canadians on a day-to-day basis are already delivered by provincial or local governments. What is wrong is that the level of government that provides the services does not raise all the revenues for those services. As a result, the tax and service-delivery system has become so convoluted that people do not know which level of government is responsible for what.

JOHN BOSSONS
Department of Economics,
University of Toronto

Don't fix a tax problem through the constitution

I do not think that the current fiscal problems are important in this debate. If we are going to assume that the impact of the federal deficit on federal policies is important, for example, then surely it is a lot easier to deal with that problem by increasing Canadian tax levels than by reshaping the constitution.

THOMAS J. COURCHENE
School of Policy Studies,
Queen's University

Surely the difference between today and 1980 is the remarkable progress that Quebec has made on the economic front. As well, Quebec now has remarkable confidence that it might be able to make it on its own. So economic factors are present in the constitutional debate — and they are important.

IAN STEWART
Advisor

Most of the economic issues such as globalization or fiscal policy are really second-order issues. We can deal with them whether we are talking about a country such as Canada or a country such as Western Canada. Sure, there are issues such as whether we would be more effective if we combined for some purposes. But the crucial issue is whether our preferences are uniform. That is the key issue on such matters as social policy and education policy: has there been a sufficient decentralization of preferences to warrant Canada's decentralization?

THE NEED TO PAY ATTENTION TO THE GLOBAL ECONOMY

Globalization has become a "buzzword", raising the question of how well our institutions are adapted to meet the challenge of global integration and global competition. The participants consider whether globalization is really new. What are its fundamental dimensions? And what implications does it have for Canadian constitutionmakers? Does it suggest the need for less centralization — or more?

HARVEY LAZAR
Deputy Chairman,
Economic Council of Canada

There are international developments that must be considered when we imagine constitutional futures. These developments can be too easily forgotten in an emotional constitutional debate that is driven by domestic language and regional impulses. But it is worthwhile to remember these international developments — and to consider their relevance.

Trade is the game

A large and growing proportion of world output is traded internationally. Despite the slowdown of the 1980s, foreign direct investment has at least kept pace with economic growth during the decade. More importantly, the globalization of world production has expanded rapidly through international business cooperation, using such nonequity forms as joint ventures, technology agreements, and other business alliances.

There was a veritable explosion of crossborder financial flows in the 1980s. Decisions about buying and selling certain assets are made on the basis of global conditions — not on the basis of national or subnational market conditions. As well, decisions about where to produce or where to acquire certain categories of manufactured goods are likely to be made on the basis of global conditions — despite such government interventions as textile quotas that interfere with efficient allocation of international resources.

Footloose production and investment

There is also a trend toward intraregional trade — such as trade within the European Community, the Asia Pacific region, or North America. It is growing faster than interregional trade. Much of that intraregional trade goes on within industries. This suggests that the pattern of international specialization is becoming more complex — that is, countries are developing niches within particular industries while importing other requirements within those same industries.

These two important developments have received much of their driving force from the private sector, not the public sector. Much direct investment — which frequently embodies "know-how", technology, and investment funds — is mobile. Indeed, the production process has, in some ways, become footloose. Portfolio capital is mobile. So are highly skilled people. Natural resources, in turn, are becoming relatively less valuable — which creates an interesting situation for Canada. In this climate, countries must compete for mobile scarce resources through the policy environment that they offer to such factors as capital and labor. In part, "would-be" host countries can create an attractive environment through their policy frameworks for such matters as taxation and regulation. This competition among countries' policy frameworks constitutes a fundamental shift in power from the public sector — through national governments — to private economic agents that are internationally mobile.

In conjunction with these globalizing forces, there are trends toward more international agreements. The system of international

More international rules

arrangements that has governed economic relations between nations in the post-World War Two period must be modernized in coming decades to keep pace with what is happening in the world marketplace. There are vacuums in areas of international competence that require filling. In areas of past competence, international institutions now seem out of date. Arrangements that have worked well in the past appear shaky. Even if a multilateral trade deal is worked out in Geneva, for example, it is not obvious that an expanded GATT [General Agreement on Tariffs and Trade] framework will encompass all emerging pressures.

One such pressure is the growth of bilateralism in international trade relations. That growth has two dimensions. First, there is a growth in bilateral free trade arrangements within a region — an example is the Canada-United States FTA. Second, there is a trend toward bilateral confrontation between regions. After all, the post-World War Two period of U.S. hegemony is largely over. There is growing uncertainty about the kind of trading relationship that will eventually emerge among the triad of the United States, the European Community, and Japan.

A central issue of the 1990s is whether that trading relationship will continue on GATT principles of multilateralism, nondiscrimination, and reduced barriers to trade or whether an alternative formula will emerge. Politicians in some nations may favor an option that focuses on negotiated levels of trade between the regions — that is, they may favor a focus on trade outcomes, not trade opportunities. That approach would entail more interventionist policies and a reduced role for markets.

Whatever international trading principles are enunciated, a whole range of issues are likely to be the subject of international negotiation. Consider the recent Japan-United States dispute. The United States argued that its trading interests were being adversely affected by inappropriate Japanese institutions or practices; U.S. authorities attempted to dictate how much the Japanese authorities should spend on public works and how they should restructure their retail distribution system; the Japanese, in turn, offered advice about U.S. savings rates and fiscal management.

Maybe that dispute was a one-time event. More likely, it tells us that little will be sacred to domestic agendas alone as economies become increasingly integrated across national borders. Instead, international trading relations will have to be modernized. The international monetary system will also have to be overhauled — look at the high level of exchange-rate volatility and the fact that exchange rates have become unhitched from the underlying productivity of the real economy. As well, because of the enhanced mobility of capital and technology, there is going to be pressure on nation-states to conclude new international agreements in such areas as taxation and competition law. Those agreements would ensure that governments are not whiplashed by transnational or global corporations.

This growing integration of the world economy has been accompanied by similar trends in other areas. Some environmental issues, for example, are truly global. International rules are going to play a growing role — whether the issue is global warming or the thinning of the ozone layer or water quality. Demographics is another force for global integration. World population has doubled in the past 40 years. It is four times what it was in 1850. Large-scale migrations from the developing world could intensify: Mexicans and Central Americans, for example, could increasingly stream into the United States. There may be international pressure on less populated and richer countries to develop new rules to accommodate large-scale movements of these people.

Finally, global changes in science and technology will influence Canada's future. Those changes will obviously affect global economic, military, and political developments, as well as social and ethical issues. Rapid and inexpensive information flow has the potential to empower people — and it may reduce the relative power of governments.

Integration and interdependence...

As a result, whether we consider the economy, the environment, demographics, or science and technology, we see increasing integration and interdependence among nations. The implications are relevant to the constitution debate. First, we see the emergence of international rules in response to the fact that a growing share of private economic activity entails international transactions. These international rules will increasingly shape the range of policy options that is open to national and subnational governments.

Second, countries such as Canada that are not great powers will have an increasing interest in seeing that these international rules are fair and reasonable. Third, the ability of individual countries to influence international rulemaking will be linked, in part, to the magnitude of their economic clout. Canada, for example, now has more influence than a small Central American country. Fourth, there is reason to believe that the increasing integration of the global economy is determining the structure of global labor markets. Thus the influence of the international economy is shaping a growing proportion of the domestic agenda of nations, including adjustment and redistribution policies. Finally, it is difficult to believe that this type of global integration will not eventually require heavier commitments to international coordination of economic policies, including macroeconomic policies.

...and their consequences for the Canadian debate

Those five implications have special relevance for Canada as we contemplate new arrangements in the constitution. First, it will be impossible in many cases to distinguish issues as domestic or international. Rather, an increasing list of issues will be both domestic and international.

Second, in the coming decade, international pressures appear most likely to affect areas where the federal government has been active. Those areas include competition policy, environmental issues with an interprovincial or international dimension, product standards, macroeconomic policy, and international trade.

Third, in some constitutional scenarios, provincial governments have the capacity to thwart the effectiveness of federal macroeconomic policies. Their collective fiscal size and their access to global capital markets, for instance, can make nonsense of the federal government's stabilization policies. Conversely, cooperation among jurisdictions, with more responsibility at the subnational level, has the potential to increase the effectiveness of Canadian macropolicy.

Fourth, in *relative* terms, the economic links within Canada are weakening. The share of foreign commerce, for example, has been growing relative to interprovincial trade; the role of domestic capital markets has become relatively less important in building domestic cohesion; large domestic corporations are becoming increasingly international.

Small and cohesive versus big and diverse

Finally, Canadians must weigh the benefits of small, relatively homogenous polities relative to large, heterogenous ones. The advantage is that a small, homogenous polity can mobilize domestic consensus relatively quickly to respond to a rapidly changing international setting.

Rapid change is bound to be constant in coming decades. The disadvantage is that small polities such as two or three successor states to Canada would have less influence at the international bargaining table than a single Canada. Thus the successor states would be less able to influence the evolution of global rules that affect their citizens. This is no small consideration — because much of the old domestic agenda will be on the international bargaining table in coming decades. We must examine whether it is possible to develop new constitutional arrangements that would enable the relatively homogenous Canadian regions to act quickly and efficiently in response to fast-changing global circumstances while preserving the clout that comes from speaking with a single voice to the external world.

In summary, the sense of alienation among certain groups in Canadian society may heavily shape Canada's constitutional future. Their grievances are rooted mainly in our domestic history, not in international developments. But, in the 21st century, much of the decisionmaking authority of national and subnational governments will be subject to international negotiation and agreement. The concept of national sovereignty will continue to evolve. Therefore, in correcting the errors of the past, it is fundamental to the interest of all Canadians that our new constitutional arrangements must be flexible enough to take account of our growing integration into a single world community.

THOMAS J. COURCHENE
School of Policy Studies,
Queen's University

When I look at the global forces reshaping our federation, I conclude that they will have more impact than internal forces will have. Transnational corporations, not nation-states, are now driving globalization. The old multinational corporations typically entered countries subject to commitments to the host country. With trade barriers now coming down, transnationals tend to enter under "national treatment" conditions. This has enormous implications: one can no longer, for example, speak meaningfully of a national production economy because production is now international.

Globalization and nation-states

This situation poses major concerns for national welfare states since they were, in general, geared to national production machines. In response, partly as a countervail to these globalizing transnational corporations, national governments are transferring powers upward to international regulatory regimes. Look at the European Community or the Free Trade Agreement panels. About 12 nations have accepted the capital adequacy rules for financial institutions that the Bank for International Settlements has established. This tendency toward international regulations and international standards is bound to expand.

Other international forces pass power downwards. The information revolution is giving enormous power to citizens. This power complicates old-style governance for nation-states. Globalization is also spreading across the world through a network of international cities. Nothing much has changed over the past decade in the relationship between Ottawa and Bonn (except that it is now Berlin!). But much has altered in the relationship between Toronto and Frankfurt.

Globalization also has constitutional implications. And the message in every case seems to be roughly similar: the span of control of nation-states is, at the same time, too small and too large in terms of many traditional functions. Indeed, faced with the diminished economic and regulatory role of national governments, citizens will increasingly view "sovereignty" as the ability to influence how they live and work and play. One can argue whether this is the city or provincial government level. But, under the existing distribution of powers, it is *not* the national level. It is *not* a federal function.

Globalization and the national economy

Compounding this trend are domestic pressures that are decentralizing the national economy. First, there is "made-in-Canada" decentralization arising from the Free Trade Agreement. As long as trade flowed largely east-west, with Ontario as the principal north-south conduit, the second-round spending impacts of interregional transfers generally came to rest in Ontario. In other words, Ontario was the eventual beneficiary of much of the transfer system. With free trade, the second round impacts of those transfers may no longer come to rest in Ontario but rather in North Carolina or California. As a result, in the face of this north-south integration, political support for an east-west transfer system will increasingly erode. It is going to become increasingly difficult, both economically and politically, to shelter significant regions of the country from market forces.

As well, north-south integration means that the provinces and regions will now pay more attention to their competitive position *vis-à-vis* their crossborder regions. Thus the provinces will take umbrage at federal policies that place their economies at a north-south disadvantage. The result may be that the provinces will demand more "say" in economic policy affecting their region.

Debt, deficits, and decentralization

The second domestic pressure toward decentralization is the reality of the federal deficit and the debt burden. Consider the current two-year freeze in Established Programs' Financing (EPF). EPF is composed of a combination of tax transfers and cash transfers. Estimates suggest that cash transfers to Quebec will fall to zero before 2000 and to the other provinces before 2010. That means that roughly $20 billion in federal transfers will eventually fall to zero. If the provinces decide to maintain service levels by increasing their taxes, the share of provincial to federal taxes will increase. If they react by cutting back or redesigning programs, national programs will be increasingly designed provincially. When federal cash transfers fall to zero, how can Ottawa insist on national standards? Whether it is the EPF or the Canada Assistance Plan or unemployment insurance, we are facing decentralization and deficit shifting that is unprecedented in the postwar period.

Let us put it differently. Many Canadians may want a strong role for the central or national government. But these economic pressures ensure that it is going to have to be a different role. Meanwhile, it is probably safe to say that Quebec will ask for much greater constitutional powers. The question then becomes: Are Quebec's demands likely to be consistent with where the world is driving the federation?

WILLIAM WATSON
Visiting Associate,
Americas Society / Canadian Affairs

How new is globalization?

I am not sure that you can design a constitutional response to global and economic events. In any case, we overdo globalization. In a sense, we are simply returning to the 19th century. International trade is now less important to the United Kingdom's economy than it was in 1870. U.S. exports and imports did not exceed their 1870 level, relative to the size of the economy, until 1977. There are estimates that foreign lending into developing countries was three times as important in the last century than it is in this century. If we look at the foreign investment statistics of the past 15 years, some countries have gone up — and some countries have gone down. A lot of the focus on globalization occurs because the United States is one of the countries where those statistics have gone up. And the United States thinks of itself as the world. Our economy has been an international economy for a long time. I am not sure that we face fundamentally new challenges in this era because of globalization.

DAVID LAIDLER
Scholar-in-Residence, C.D. Howe Institute, and
Department of Economics, University of Western Ontario

And what are its lessons?

I agree. Look at the interwar years, when we had all kinds of attempts at international policy coordination. All of those attempts failed because each country's domestic policies were inconsistent with the notions of global integration. We should not conclude, "There is a global economy out there — so we need a policy." Instead, we might simply need a consistent approach to domestic policy. The rest will take care of itself.

HARVEY LAZAR
Deputy Chairman,
Economic Council of Canada

Today's world is different

There is a difference between today's world and the world of 19th-century Britain. The British sold cotton fabrics to India, protected by an Imperial Navy and a set of tariff arrangements that created a kind of captive trade. In contrast, the driving force for much that is happening today comes out of the world of science and technology. Some large corporations are certainly important global vehicles for transmitting technology. My perception of the Canadian labor market, for example, is that it is being very heavily influenced by changing patterns of trade and technology outside of Canada. These patterns affect almost all aspects of domestic policy on labor markets and on redistribution. There are clear links between global pressures and the disappearance of jobs in the middle of the Canadian earning spectrum.

DAVID LAIDLER
Scholar-in-Residence, C.D. Howe Institute, and
Department of Economics, University of Western Ontario

The argument is not about whether these things are happening. Instead, the argument is about whether these things have been happening for the past 150 years. Jobs have always vanished because somebody somewhere else has invented something. Technology is always being transferred. There have been massive capital flows across international boundaries. It is nothing new.

PETER SADLIER-BROWN
Assistant Deputy Minister,
Ontario Ministry of Intergovernmental Affairs

Surely there is something different about the past 50 years. After all, that half-century of modern nation-states, the war, and the development of macroeconomics made the nation-state more important than it was before. Perhaps that era has passed. Perhaps we are now moving back to something that existed previously — although there are, of course, differences in terms of modern technology and politics.

BRYNE B. PURCHASE
Senior Policy Analyst,
C.D. Howe Institute

The relevant historical comparison for today's global economy is correctly with the 19th century. It is clear, in that context, that not much has changed. But remember that the 19th-century experiment finally fell apart in the 1930s with the Great Depression, the suspension of the gold standard, and the competitive increase in tariffs around the world. In the postwar era, we went back to a global economy, in part because of the promise of Keynesian economic policy. That is, we believed that we could use government spending, taxing, and monetary policies to ensure full domestic employment with price stability. Now we recognize that, in large measure, these policies are not possible anymore. The question is: What does that mean for Ottawa since it cannot fulfill that function any longer?

JOHN CRISPO
Faculty of Management,
University of Toronto

The future of the nation-state

The nation-state is still important in the sense that competition between firms and industries has not been replaced by — but is clearly being supplanted by — competition between countries. The country that is going to win is the country that provides the best framework within which the private sector can plan ahead with certainty and confidence. I do not think that you should minimize the importance of the nation-state. You should also not minimize what a breakup would mean to Canada's ability to provide a competitive framework.

THOMAS J. COURCHENE
School of Policy Studies,
Queen's University

We must deal with the issue of how the individual links himself to the global economy in these two eras. That linkage used to be forged through the nation-state. Now, progressively, with the increase in communications, that linkage is becoming more direct. People feel that they are part of the global economy. Cities are now international. Local communities are making what used to be national decisions. Individuals can become international in this more-than-symbolic sense. All of this is decentralizing. National governments are in for a tough ride.

DON STEVENSON
Associate to the Principal,
Glendon College

What about the North American economy? Many of the conditions that led to east-west economic integration in Canada for the last century are not there now. North-south economic flows are replacing east-west ones. Federal priorities have been rendered impossible or very difficult — because of global forces or the Free Trade Agreement. The federal government does not have the capacity to do what it used to do.

MARCEL CÔTÉ
Partner, Secor

The financial securities industry is the industry that probably should have been managed on the national level. But it has always been regulated on the provincial level. I wonder if shifting power from one level to another, even in an area as sensitive as the securities industry, really matters.

BRYAN SCHWARTZ
Faculty of Law,
University of Manitoba

Globalization does not = disintegration

I would argue that globalization and regionalization do not necessarily contribute to national disintegration. Globalization may, in fact, contribute to better and freer relations within a country. Groups that have difficulty in getting along when tied together in small political units may cooperate very well together in a larger context. Factional struggles in Canada may ease in the context of freer trade and freer movement throughout the world. Also, governments may react to global trends by applying them to their internal groups: Canada may follow up on free trade with the United States, for example, by insisting on freer trade within Canada.

RICHARD FRENCH
Government and Regulatory Affairs,
Bell Canada

Size and efficiency: Is smaller better?

If you think about the role of the state in the global economy, it is a bit of a wager. Do you need a large state so that you can be internationally efficient and influence the rules in the interests of your economy? Or do you need a small state that is internally politically efficient so that you can be agile and make decisions rapidly? I think that you might want the small state. Certainly, Quebecers want the small state. Look at the large companies whose interests span political communities. Apart from export credits and preferential financing, they have little interest in carrying big internal overheads in most nations to support a big state apparatus. I do not want to imply that you would necessarily want to have the Canadian constitution functioning in the interests of large organizations. I am simply saying that if you really believe that those corporations are going to have fundamental influence, then you have to ask: Do you want to bet on agility or do you want to bet on the international mass that is supposedly created by the amount of government weight and the number of people that you can put behind your claims.

PATRICK MONAHAN
Director, Centre for Public Law
and Public Policy, York University

We talk about international contact as if these forces are somehow pushing Canada in a certain direction. But we do not see the U.S. government coming into fundamental question. Why do we assume that these international forces are somehow pushing Canada in a decentralized or more centralized fashion? Our problems are very much the product of internal forces.

THOMAS J. COURCHENE
School of Policy Studies,
Queen's University

Perhaps the United States has the ability to be large and inefficient because it can control such aspects of its economy as the rules in the system. We can never do that. Maybe we might be better off trying to be the small and agile country that can adjust to the rules that other people make.

IAN STEWART
Advisor

Globalization and social democracy

Surely, in 1867, the predicted efficiency cost of the Canadian federation would never have permitted the federation to survive. Nonetheless, we somehow managed to achieve the second-highest real standard of living in the world — $1,000 in per capita income below the United States, $5,000 ahead of the next state. Second, we continuously hear what Canada cannot afford. But we are in the bottom third of the OECD [Organisation for Economic Co-operation and Development] tables in both the scale of government and the scale of public goods that we finance.

I detect an inexorable sense that governments can no longer pursue social justice because of globalization and decentralization and withering economic capacity. I recognize that there are global forces. Some of those forces advantage the Canadian economy; some of those forces disadvantage the Canadian economy. But I do not believe that these are fatal trends that prevent the social democratic principle from becoming one of the myths that might strengthen Canada. Is global economic competition becoming the central world rationale? I am uneasy because there is a market-driven, "economic competition" point of view among today's economists that almost removes any sense of political purpose from the constitutional discussion.

SESSION TWO

CONSTITUTIONAL VALUES AND OBJECTIVES

What do Canadians want?
How can we embrace our common interests while accommodating our many diversities in the Canadian federation?

SESSION TWO

CONSTITUTIONAL VALUES AND OBJECTIVES

Economic and social factors versus constitutional options

What is it to be a Canadian in the 1990s? What are the fundamental issues that must be addressed? What are the basic tensions that must be resolved? What values should we pursue? In this session, participants begin to make stronger links between the economic and social factors, discussed in Session One, and concrete constitutional options.

CHAIR:

DAVID CAMERON

Department of Political Science, University of Toronto

The social contract

My construction of this topic is that we are not really talking about constitutional values as such. Instead, being a former political theorist, I would say that we are talking about the social contract. The social contract is the expression of the common interest and the sense of shared purpose that underlie a society and hold it together. The social contract permits the construction of a constitution — and the construction of institutions on that constitution.

Some values of the social contract are reflected in the constitution. Typically, some are not. One of features of our recent life is that there has been a tendency to assume that there is something wrong if there are clauses in the social contract that are not in the constitution. Perhaps those should be the broad lines of our discussion.

THE ECONOMIC AND SOCIAL ROLES OF GOVERNMENT

Too often, we discuss Canada in terms of the interests of abstract entities such as provinces and language groups. Michael Trebilcock reminds us that the fundamental building block is the individual. He uses this "bottom-up" approach to construct a model for a "rebalanced" federation. Both his premises and the conclusions he draws about assigning roles to government are then vigorously debated.

MICHAEL J. TREBILCOCK
Faculty of Law,
University of Toronto

Canada today stands at the edge of an abyss. The status quo is no longer open to us. We must think the unthinkable and review two radical options with deadly seriousness. The first option is that Quebec leaves Confederation and perhaps subsequently negotiates some ill-defined economic relationship with some equally ill-defined form of English Canada. The second option is a radically decentralized Confederation.

Prisoners of paradigms

When we imagine constitutional futures, our starting point is of critical importance. I believe that we remain prisoners of the paradigm that led to the collapse of the Meech Lake Accord when we pose questions such as "What does Quebec want?" and "What does the rest of Canada want?" Those questions fundamentally mischaracterize and constrain the options that we should canvass. Quebec, while a juridical entity, has no single discernible opinion on anything. Even more, the rest of Canada does not, and never will, have an opinion on anything. That approach simply reifies juridical abstractions.

Start with the individual

I would rather take the approach of "methodological individualism". I would rather ask: What do individual Canadians with their highly diverse preferences want? This implies a bottom-up, not top-down, approach to constitution building. My general orientation is to search for constitutional arrangements that would provide ample space for individuals to pursue their life plans as they wish — unless their plans would have substantial negative effects on third parties. I suggest that most Canadians would support the protection of a set of negative liberties that would constrain the majority from unjustified encroachment. When we build a constitutional model from the level of the individual citizen, however, we must also recognize that most citizens espouse goals that can only be realized through collective action. Thus most Canadians would also endorse constitutional protection of affirmative individual liberties that guarantee equal rights of participation in collective decisionmaking.

A bottom-up approach

In regard to these collective decisions, the critical and highly contestable issue is: What collectivity is best placed to meet the collectively shared goals of individuals? When we "work up" from the individual, we arrive at the strong presumption that the communities in which individuals are most immediately situated are best placed to meet their collectively shared preferences. As the collectivity becomes more broadly defined, the identification of individuals with collective goals becomes more attenuated. As well, the capacity of the collectivity to effectuate the preferences of most citizens becomes increasingly circumscribed. True, some collectively shared goals may require effectuation by less local communities such as a province or a region. That is because of economies of scale or coordination problems or spillover effects. Other collectively shared goals may only be effectively realized at the national or supranational level. But for many issues, it is far better to opt for decentralized decisionmaking — first, to the level of the individual, then to the local community, then to the regional community.

This reasoning leads to the presumption that most social policy issues are best handled at a decentralized level of collective decisionmaking. Taxing and spending powers should be aligned together so that the level of government that is determining social policies should also be responsible for raising the revenue. Most areas of social policymaking have no or limited interjurisdictional spillovers. In this category, I include health-care policy, educational policy, language policy, telecommunications and broadcasting policy, cultural policy, and social welfare policy.

On the other hand, most major economic issues can only be resolved at the national level and, given the trends toward globalization, increasingly at the supranational level. Economic policymaking at lower jurisdictional levels often entails the danger of beggar-my-neighbor problems, such as the international trade protection wars of the 1930s. It is likely that the welfare of most citizens would increase with national coordination of domestic economic policies, especially macroeconomic and trade and investment policies. We might also have a more influential presence in the increasingly international settings where economic policies are shaped.

Multiple loyalties, multiple jurisdictions

Thus, I envision multiple collective loyalties: most social policy issues would be resolved at local or regional levels; most major economic framework issues would be resolved at the national level. The federal presence in areas of social policy should be closely scrutinized. Provinces, in turn, should surrender significant oversight and coordination powers with respect to economic policy. It may be a legitimate function of the central government, for example, to make interregional transfers to equalize expenditures on public goods across regions. The central government should employ direct transfers to citizens so that taxing and spending powers are at the same level of government for accountability reasons. Both levels should accept significant constraints on their powers if they attempt to encroach on legitimate individual liberties.

It is clear that more localized or regional communities require representation in the central institutions of government. It makes sense to establish a House of Confederation or Senate, elected on a regional or provincial basis. That Senate would, for example, ratify international treaties. It would also issue binding directives about provincial policies that could distort the Canadian economic union and it would approve interregional transfers. Other major central institutions such as the Bank of Canada, the National Energy Board, and the Supreme Court of Canada may also require institutionalized subnational representation of collectivities.

I suggest that this paradigm can achieve the preferences of most Canadians. It recognizes multiple loyalties with allegiances to different collectivities. The economic realities are that we all have to coexist in a cooperative relationship for as long as anyone can foresee in the future. *Indépendentistes* in Quebec and exclusionists elsewhere should remember that the value of interprovincial trade in Canada is as important as the value of international trade. An economic relationship among the jurisdictional units of Canada is indispensable. Some coordination of economic policy at the national level is unavoidable. Accommodation is inevitable. It is rational to make these accommodations while minimizing the ruptures to our existing economic, political, community, family, and personal relationships.

ROBERT YOUNG
Department of Political Science,
University of Western Ontario

I would take issue with the happy presumption that an accommodation is inevitable. There may be gains to be realized. But individuals have to see those gains. They have to negotiate; they have to realize those gains. There is nothing automatic about this.

BRYAN SCHWARTZ
Faculty of Law,
University of Manitoba

Is the local community really the most representative?

There are several controversial political value judgments here. First, there is the very strong presumption in favor of the local community. It is true that locals will more likely share values. That is why the position of the dissident individual becomes much more vulnerable. Being on the "outs" with the "powers that be" in a small community is a specially bad thing. Being a minority within a larger homogenous group, such as the situation of the aboriginal people in Quebec, is more difficult than being a minority among many minorities in a larger federal unit. One of the virtues of federalism is that it does have this balance between the local and the central. Also, I would prefer that people have a direct relationship with the central government. I would not want to mediate that relationship through arbitrary groups such as my Premier or my province. The individual should be able to say, "That is my member of Parliament."

EDWARD CHAMBERLIN
Department of English,
University of Toronto

Learning from the First Nations

We may be able to learn from the First Nations. I was recently involved in a conference with the Assembly of First Nations on aboriginal self-determination. One of the most striking things was the strong commitment to what you could call, for want of a better word, Canada. The participants had a strong sense of stewardship for what was important in Canada. Perhaps we should break out of monolithic approaches — that is, perhaps we should stop adopting approaches that deal solely with our existing levels of government. We might develop visionary constitutional ideas.

STANLEY BECK
Vice-Chairman,
Central Capital Corporation

The importance of national cultural institutions

I would like to refer to four federal institutions that deal with areas of provincial power and that have a great impact on the social contract and the quality of life. I am thinking about the Canada Council, the National Research Council, the Canadian Broadcasting Corporation, and the Social Sciences and Humanities Research Council of Canada. Are all those institutions going to devolve down to the regional sector — with all of the disparity and diversity that we have discussed? If so, we are talking about a different quality of life.

REG WHITAKER
Department of Political Science,
York University

We want out / we want in

There are problems with "methodological individualism" as a way of looking at constitutions. If we cannot deal with the community as something that transcends individual interests, we are in stormy waters when we try to understand why some want "in" and some want "out". When we talk about native people or about Quebec, we tend to be looking at people who want "out" at some level. In many cases, when we talk about people in the West or about women, we are really talking about people who want "in". These desires have a lot to do with each group's definition of community. Also, we have to come to terms with the political reality that, sometimes, some groups are able to develop mechanisms which, in effect, create themselves as communities. The Bélanger-Campeau Commission in Quebec is that kind of mechanism — that is, it is an attempt to forge a voice that will not be unitary but that will speak authoritatively and with resonance for the Quebec community.

RICHARD FRENCH
Government and Regulatory Affairs,
Bell Canada

Tensions between individual and community values

It is not obvious to me that the premise in favor of the individual is the overriding political value in some important Canadian political constituencies. Native people would be one constituency that does not view individual rights as the overriding value. Francophone Quebecers would be another constituency — for reasons of historical experience as much as ideology. The Charter of Rights has not straightened out the relationship between collective and individual rights — and the inevitable tension between those two sets of rights. That flaw has left us with terrible unfinished business. If we cannot get that relationship straight when we imagine another Canada, we will not understand where other groups are coming from. Francophones and anglophones do not come from the same political tradition. Pierre Trudeau's presence and his allegiance to [English philosopher] John Stuart Mill-type liberalism have obscured this important gap in fundamental political values.

DAVID LAIDLER
Scholar-in-Residence, C.D. Howe Institute, and
Department of Economics, University of Western Ontario

Redistribution and accountability

If you are going to rely on the community level or the provincial level to provide such services as health care, education, and welfare, you come face to face with the fact that some provinces are better able to provide these services than others. Equalization has been one of the traditional roles of the federal government. I believe that the government with the responsibility for collecting the taxes must have the responsibility for making the expenditures. That means that you must face a nasty question: do you want a federation with vastly different levels of social services or do you want to maintain national redistribution? If you want to maintain national redistribution, then it seems to me that you want a national Parliament with individually elected members. You do not want to give the national power to tax individuals to the representatives of provinces. At the same time, if you want redistribution, that redistribution should flow directly from the central government to individuals, rather than to provinces.

Perhaps I overstress the extent to which economic relationships define the sense of community. But if citizens believe that the province is providing their hospitals and their universities, they become awfully cynical about the federal government that is collecting the taxes to pay for them.

RICHARD SIMEON
Department of Political Science,
University of Toronto

The commitment to sharing

We seem to regard provincial differences that arise out of different preferences as legitimate. In contrast, we appear to see provincial differences that arise because some provinces have more capabilities than others as illegitimate. The great drive for centralization in European and North American countries in the postwar period was largely in response to a democratic preference to develop the welfare state. I am concerned that we have now relegated the federal government to the role of taxer and regulator and framework setter. If the federal government does not provide direct services to citizens, does it have the political support and legitimacy that is necessary for redistribution? The arguments here make me wonder whether there remains any underlying social commitment to that redistributive, sharing role.

ANTHONY SCOTT
Department of Economics,
University of Ottawa

It is pointed out that our national redistribution system and its associated transfers are inefficient. Those transfers make it very hard for parts of Canada to meet future challenges. I presume that the nation knows this fact — and that it still wants to keep redistributing. As a result, I contend that interregional redistribution is a preeminently strong Canadian motive, almost a unifying motive. All disadvantages are understood — and thought to be acceptable. Was it not said in 1982, when the constitution was repatriated, that redistribution was almost the only goal that all parties could agree on?

JOHN BOSSONS
Department of Economics,
University of Toronto

If this country becomes substantially decentralized, either through a very decentralized federation or through independence of the regions, it is very optimistic to assume that regional redistribution will not be a casualty. It is hard to envision a more decentralized Canada supporting our degree of redistribution.

JEAN-PIERRE VOYER
Project Director,
Economic Council of Canada

A basis for compromise

If you took Michael Trebilcock's [Faculty of Law, University of Toronto] blueprint to Robert Bourassa, I think that he would say: "You have got a deal." That is the way that Quebec is heading. Many papers before the Bélanger-Campeau Commission, for example, talk about the need to align the taxation and spending functions. As well, there is no need to leave all responsibility for redistribution with the federal government. The rest of Canada, specifically the centralist and more social democratic parts, will want to maintain intraregional functions at the federal level. But I contend that a province of 6 million people such as Quebec can certainly take care of income redistribution among its own citizens.

LANGUAGE GROUPS AND NATIONAL AND REGIONAL INTERESTS: HOW DO WE ACCOMMODATE THEM?

Language is at the heart of the Canadian debate. It seems clear that any solution must go beyond the division of powers to address language policy. Two models for the accommodation of Canada's two main linguistic groups have long been in tension: a national model, which stresses minority language rights from sea to sea; and a more territorial version, which stresses the existence of two societies — one that is predominantly English speaking, the other that is predominantly French speaking. The former model looks to national bilingualism, in law and the constitution; the latter endorses an approach in which each province would have chief responsibility for its own language regimes.

RAYMOND BRETON
Department of Sociology,
University of Toronto

The current socio-political context for constitutional negotiations differs significantly from the situation that prevailed two or three decades ago. I want to discuss four features of the current context. These features impart a distinctive character to the present — and they will play an important role in future constitutional accommodations.

Bilingualism in federal institutions

Let us begin with the "bilingualization" of federal institutions in 1969. This was done to accommodate the two major linguistic collectivities. We can argue about the resulting degree of "bilingualization". But there was a significant change in terms of the practices, the recruitment, and the symbolic representations of federal institutions. This change had an unanticipated consequence: the attempt to make the central government into the government of both groups has resulted in the fact that neither group sees the central government as its government. An objective analysis would probably show that both language groups have their share of power and influence in federal decisionmaking. The perception, however, is that the other group's influence is more decisive.

For many English Canadians, this perception is experienced as a loss. Many once felt that the federal government was the government of English Canada while Quebec was perceived as the government of French Canada. With "bilingualization", many English Canadians now feel that they have lost *their* government as an instrument for the pursuit of their collective interests and as a symbolic object. Many now perceive, for example, that to be Prime Minister, you have to be from Quebec. English Canadians increasingly feel that they no longer have a political center under their control that they can trust. English Canadians are also politically fragmented — that is, there are regional inequalities, competing provincial governments and bureaucracies, interprovincial barriers to trade, and ethnic heterogeneity.

A fragmented English Canada

The perceived lack of a political center and the existence of this fragmentation make it difficult for English Canadians to deal with other groups' claims. Quebec's "distinct society" claim, for example, raises the level of political anxiety in English Canada. On the one hand, it symbolically underscores English Canada's difficulty in making a similar claim. On the other hand, it underlines English Canada's feeling of *impuissance* in the face of a very cohesive French Canada. English Canada feels that it is unable to put its act together. As a consequence, elites in English Canada have difficulty in controlling extremists — that is, they find it hard to control people who are extreme in their articulation of the political insecurity of English Canada.

The fragmentation of English Canada and the perceived lack of a trusted political center are likely to impede the constitutional bargaining process. In order to succeed, the representatives of each group must be able to generate a substantial degree of consensus within their respective constituencies. Constituents must trust that their representatives will effectively represent their interests. Otherwise, it will be difficult to reach an accommodation or, if one is reached, it will be difficult to "sell" it to all politically important subgroups. There is no need now for a commission on Canada. There is a need for a commission on English Canada — that is, there is a need for a commission on how English Canada should be reorganized to deal with Quebec.

Consensus in Quebec

The second feature of the current constitutional context is the high degree of political consensus that has emerged in Quebec in recent years. Despite the "methodological individualism" of Michael Trebilcock [Faculty of Law, University of Toronto], the state is clearly the instrument for the pursuit of collective interests. It is also a powerful object of identification — the main embodiment of the nation. In recent decades, Quebec has become more ethnically homogeneous. The level of political consensus is also increasing. (That trend is heading in the opposite direction in English Canada.)

The main manifestation of this trend is the fact that, in contrast to several years ago, there are now few politically significant groups defending the federalist option in Quebec. Instead, there is a very high degree of consensus. People who do not follow that consensus are penalized. All of English Canada's accommodations are ignored. Even the elite who know about these accommodations do not talk about them. They do not talk about the fact that there are thousands of English Canadians in immersion courses. They only talk about the Brockville incident, where a handful of people walked on the Quebec flag. Indeed, there is a single Quebec paradigm through which all events are selected and interpreted: English Canada has rejected Quebec; it has done too little, too late; Quebec treats its minorities well while English Canadians do not. The extremists in Quebec are easier to control because they serve the purposes of the elite.

A few decades ago, there were two hotly debated theories about the situation of francophones. One theory located the cause of their problems in their own culture and institutions such as the dominance of the Church. That theory now commands little support in Quebec; among many, it is completely discredited. The other theory locates the obstacles to progress in such external agents as federalism, the economic dominance of anglophones, and the demographic and cultural weight of the English language. Events are now interpreted through that theory. Events are seen less in terms of exploitation — and more in terms of lack of proper recognition and respect. They are seen less in terms of deliberate attempts at assimilation — and more in terms of the refusal of English Canadians to accept that Quebec needs special constitutional powers to protect its language and culture. They are seen less in terms of absence of power in Ottawa — and more in terms of the limitations that the existing federal arrangements place on Quebec's *projet de société*. This approach is not driven by a sense of inferiority — but by a sense of equality and perhaps even superiority. There is a sense that Quebec is not a province but a "distinct society".

This feature has two implications for the bargaining process. First, it will be difficult to find anyone with credibility in Quebec who will talk about a Canadian project, let alone negotiate a new federal arrangement. Second, the *deux nations* concept, which was twice rejected in recent years, is now being reimposed on English-Canadian consciousness. It will be a central element of future political bargaining. English Canadians will have to start thinking of themselves as a nation that is dealing with another nation.

Changing English-French relations

The third feature of the current constitutional context is that there has been a very important shift in the dynamics of English-French relations during the past 20 to 25 years. A few decades ago, there was a fairly general consensus that francophones in Canada, particularly francophones in Quebec, were voicing legitimate grievances. There was an equally wide consensus that something had to be done about those grievances. Changes in linguistic policies and practices were introduced at the federal level, in Quebec, and in a few other provinces. Economic growth and individual mobility in Quebec has been considerable.

Quebec rhetoric, however, is still the rhetoric of grievance. In liberal democracies with an egalitarian ideology, groups tend to seek legitimacy for their claims by expressing them in the language of grievances. They speak about rights that have been violated, about the unfair distribution of resources, about not receiving due status and respect. They thus avoid power-seeking language. But the perception in English Canada is that the grievances, by and large, have been corrected. As a result, new claims by Quebec francophones tend to be perceived as claims for additional power — even if those claims are to the detriment of other parts of the country or the country as whole.

The constitutional implication is that English Canadians feel that there is an underlying agenda — that is, they feel that they are in a power fight. Meanwhile, although Quebec's rhetoric has not changed, it has moved from a protest nationalism to an entrepreneurial nationalism. That makes accommodation very difficult. That was the problem, for example, with the "distinct society" clause. English Canadians could not see the problem that this special status was intended to solve; the clause was consequently rejected as a strategy in the pursuit of power.

The end of elite accommodation

Lastly, several observers have noted that Meech Lake ended the era of "elite accommodation" in Canadian politics. Public opinion and public attitudes will now be more significant components of the constitutional bargaining process. Accommodation is a matter of attitude and communications. But French and English Canadians do not talk to each other. Communication is through the media. Any policy of accommodation will have to deal with the media because they select the events and define the agenda. When the material and symbolic stakes are perceived to be high, polarization may occur. Communication between the groups becomes distorted; expressions of hostility are emphasized; gestures of goodwill tend to be ignored; compromises are defined as "giving in"; the actions of extremists tend to be seen as the views of the collectivity. In addition, pressures for conformity increase within the collectivities. In such situations, political leaders who see the negotiations as complex may be paralyzed into inaction because they have very little room to maneuver. In their attempt to manage the situation, they may only increase the polarization.

These four factors mean that the uncertainty surrounding the bargaining and accommodation process will be much greater than is usually the case in political negotiations.

DONNA DASKO
Vice-President,
Environics Research Group Ltd.

The issue is "distinct society" — not bilingualism

Raymond Breton suggested that English Canadians have lost their sense of what constitutes Canada because bilingualism has increased in federal institutions. I would contend that bilingualism is a less important factor in that loss than the growth of a "distinct identity" among Quebecers. If we look at attitudes over the past 12 years, we see that English Canadians, particularly middle-class English Canadians, have been willing to accept the "bilingualization" of federal institutions. What has really bothered them, however, is the growth of a more distinct identity on the part of Quebecers and the growth of a language policy that appears opposed to "bilingualization". They are quite perturbed: while they were being asked to become more bilingual, they were seeing Quebec become more unilingual. As a result, English Canada has rejected the concept of special status, from the *deux nations* concept of [former Progressive Conservative leader] Robert Stanfield to the "distinct society" clause.

DONNA GRESCHNER
College of Law,
University of Saskatchewan

Westerners feel left out

I want to respond to the assertion that many Canadians feel that they have lost their government. The dominant feeling in Western Canada is that they have never had a government. The so-called government of English Canada has always been the government of Ontario. That is one of the deep-seated causes of Western alienation. It is perhaps best exemplified in the Reform Party's slogan: "The West wants 'in'." In fact, the entity called "the rest of Canada" does not exist, except geographically. When people say "the rest of Canada" and "English Canada", I automatically interpret that as Ontario.

HARVEY LAZAR
Deputy Chairman,
Economic Council of Canada

One, two, many Canadas

If the rest of Canada were simply Ontario, the current situation would be different. We would have 7 million people in Quebec and perhaps 8 or 9 million people in Ontario. We would have a French-speaking nation, by and large, and an English-speaking nation. It would be easier to work out differences. Instead, we have one or more Western Canadas that are distinct from Ontario; we have the distinctions within Atlantic Canada. It is not correct to view the rest of Canada as Ontario. The rest of Canada is an amalgam of different regions.

ANDREW PETTER
Faculty of Law,
University of Victoria

The constitution is no longer an effective vehicle for accommodation

Raymond Breton pointed out that we now rely on the media to accommodate. I contend that, prior to 1982, we had another mechanism for accommodation: the constitution. Today's constitutional crisis is derived less from the events surrounding Meech Lake than it is from the forces that were set in motion by the 1982 constitutional amendment.

Prior to 1982, Canada's constitution served more as a forum for political debate than it served as a statement of political values. The informal and indeterminate character of the pre-1982 constitution allowed the accommodation of different and often contradictory views of the nation. While Quebec nationalists could see constitutional commitments to regional identity, collective rights, territorial bilingualism, and special status for Quebec, for example, others could see commitments to pan-Canadian identity, individual rights, personal bilingualism, and provincial equality. The constitution both reflected and legitimized the political tensions underlying Canadian society. The constitution assimilated those tensions; it did not answer them. I grant that the accommodations that took place were elite accommodations, largely among regionally based elites. But that was the glue that allowed the country to hold together. The constitution served as an instrument of social stability and national unity.

The 1982 amendment undermined the constitution's stabilizing and unifying influence. It formalized, and thereby privileged, political values that were acceptable to elites in English Canada — but inimical to elites in Quebec. The 1982 amendment favored pan-Canadian identity over regional identity, individual rights over collective rights, personal bilingualism over territorial bilingualism, and provincial equality over special status for Quebec. The amendment has contributed to a deepening sense of alienation and anger among Quebec nationalists. They see very little in the current constitution that allows for accommodation or that represents their interests in a meaningful way. It has fueled their demands for further constitutional reform. At the same time, other Canadians have shown growing support for the political values that were formalized in 1982. They see greater affirmation of the values with which they feel comfortable.

A mechanism for disunity

Thus the constitution has become a mechanism for disunity. The rest of Canada's attachment to the values in the 1982 constitution means that it is increasingly difficult to dislodge or counterbalance those values to satisfy the concerns of Quebec nationalists. This difficulty is heightened by an extremely rigid and procedurally complex amending formula. It is further heightened by the presence of groups whose interest in constitutional reform was recognized during the 1982 process. Those groups now have an acknowledged stake in future constitutional amendments. Aboriginal groups, for example, still resent the failure of the 1982 amendments and subsequent negotiations to protect their rights. They have promised to block changes that do not rectify that injustice. Meanwhile, both women's groups and multicultural groups, which won partial victories in 1982, have indicated that they will not tolerate amendments that could weaken constitutional commitments to the values with which they identify.

As a result, the 1982 amendment marks a watershed. We lost our major instrument of accommodation: the constitution. I see Meech Lake as an attempt to counterpose the values that were formalized in the 1982 constitution with contrary values. But once the values in that constitution were formalized, they became sanctified in the eyes of their adherents who, in turn, became more resistant to the contrary set of values. That context helps to explain why the Meech Lake process failed. It seems to me that further efforts to address Quebec's constitutional demands are likely to meet the same fate.

PETER LESLIE
Department of Political Studies,
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Andrew Petter said that the rest of Canada found its instrument in the 1982 constitution. I vividly recall that, at the outset of the Meech process, Quebec Intergovernmental Affairs Minister Gil Remillard emphasized that the *Constitution Act, 1982* contained many positive features for Quebec. In particular, he mentioned the Charter of Rights. He emphasized that there were certain flaws in the *Constitution Act* that made it unacceptable to any government of Quebec. But he also emphasized that its overall thrust was fully acceptable to Quebec. For whom was he speaking? Was he misjudging the mood of Quebec?

Quebec embraces Charter values too

DONNA GRESCHNER
College of Law,
University of Saskatchewan

There is a feeling in Western Canada that the glue that kept the country together before 1982 was the colonial mentality in Central Canada. Until the 1950s and 1960s, Central Canada treated Western Canada as the hinterland for its economy. That analysis also applies to Quebec: before the Quiet Revolution, Central Canada treated Quebec as a colony. Perhaps that colonial mentality faded because of an emerging sense of identity — whether that identity was grounded in Quebec's sense of language and distinctiveness or in the West's sense of economic disempowerment. Perhaps the 1982 constitutional document is simply a product of that glue coming apart.

The old "colonial" glue has crumbled

JEAN LAPONCE
Department of Political Science,
University of British Columbia

We must consider fundamental trends when we want to accommodate language groups — and when we want to restructure the relationship between Quebec and Canada. Therefore, let us look at the problems of Confederation from the vantage point of an experiment that failed: the Soviet Union. We used to think of the Russian Revolution in 1917 as the successor to the French Revolution of 1789. According to that view, the Soviets carried the principle of equality further than the French — from the political to the social and economic spheres. Now we see that the two revolutions were the fundamental opposites of each other. The French Revolution separated functions that used to overlap: it separated the economy from politics; it separated religion from the state. The Russian Revolution did the reverse: it fused the economic, the political, the cultural, and even the religious (dressed in secular garb); it joined what was in the process of being dissociated.

Tectonic plates: Two versions of nation building

What are we to learn from those events that would be relevant to Canada? Is there a connection between the partial failing of the Canadian system and the fall of the Russian? The answer lies in [U.S. sociologist] Talcott Parsons, who predicted the failure of the Soviet system in 1966, arguing that a complex modern society cannot resolve its problems unless it disaggregates its basic functions. As a society becomes more complex, it has greater need to respond to the increasingly complex demands of its environment, not only through a division of labor but through a division of functions. It must separate its economic, social, and cultural systems so that they can respond to different logics. The logic of politics — for example, individual equality — does not need to be the logic of the economy — for example, profit — which does not need to be the logic of culture — typically, the maintenance of tradition.

Thus we should expect that contemporary political systems will often be pulled in opposite directions, toward aggregation *and* toward disaggregation. That should not be viewed as abnormal; rather, it is an invitation to use opposite strategies in separate fields. The Charter of Rights of 1982 failed to do that. We have now two main actors — Canada and Quebec. They move in opposite directions, like tectonic plates. Both of them are engaged in nation building. Nation building to English Canada means integration. Nation building to Quebec means separation. As long as the two movements remain linked systemically, we should expect tremors and earthquakes. The question is: Can we avoid the Russian mistake and separate what responds to different logics? Can we decouple the plates?

Alternative strategies

First, let us consider the strategy of having no precise strategy — keeping close to the status quo, muddling through — in the hope that the problem will fade away. In other words, wait for earthquakes, then patch up things. This strategy would have two possible results. One possible result is that, in the long run, Quebec would finally "convert" to English. This would occur if the mass of new immigrants, needed by a society in full demographic decline, were only weakly committed to the preservation of the French language.

The second possible, and more probable, result is that Quebec would finally separate from Canada after too many "too little and too late" federal patchups. *Québécois* in the next century may ask, "When did Quebec become independent?" They may have the same difficulty with the answer as my students have when they are asked, "When did Canada become sovereign?" Indeed, independence may happen again in a similar fashion: independence occurred slowly, undramatically; one does not remember exactly how. This scenario would fit the anti-revolutionary cultures of both Quebec and Canada. There is an undramatic obstinacy in the historical evolution of both Quebec and Canada. Both actors keep wanting the same thing: both have been on the same course since 1867; both are nation building. That is why they keep diverging. One might as well ask geological plates why they keep pushing.

To have a chance of stopping the movement, one must get ahead of it. That may mean that one must give more to Quebec than it claims. It would be dysfunctional to approach a negotiation with Quebec with the idea of giving up as little as possible. If Canada wants to keep Quebec "in", it should give what will satisfy Quebec in the long run — even if Quebec does not ask for it in the short run.

The issue is language and culture; so is the solution

Why does Quebec desire complete separation? For economic reasons? I do not sense that economics is at the root of the desire to separate. For political reasons — that is, for power grabbing? Partly. But Quebec is not yet solidly after power for the sake of power. It is a remarkably tolerant society that does not yet see independence as the sole guarantee of liberty. Instead, the Quebec tectonic plate shifts away primarily for cultural reasons. Quebec's cultural distinctiveness, now that religion has weakened, has essentially focused on language.

There are two solutions. One, state that Quebec has the exclusive right of legislation over language. Two, as proposed by the Pepin-Robarts Commission, give that right to all provinces. The second solution is more in the spirit of federalism. It will be argued that such a solution would be inimical to the francophone minorities outside Quebec. Possibly. But would those minorities be better protected in an independent Quebec? Furthermore, in the present constitution, there is a built-in distrust of the provinces that is likely to lead to increased resentment. The constitution and the Charter of Rights tell the anglophone provinces: "We trust you to look after your forests and your minerals and your Italians and your Ukrainians but not your francophones." If left to their own devices, would the provinces use the schools to integrate their minorities? Possibly. But more probably, in their wisdom, they would recognize that these minorities are not threats to the dominant language. English is nowhere endangered in English Canada.

Generosity would be good policy

The dominant language is weak in Quebec — because of migration patterns and the low birth-rate of the *Québécois* population. But as long as the relative size of the nonfrancophone population remains stable, it is unlikely that current Quebec practice would change if one gave exclusive control over language and some aspects of communication to Quebec. Nevertheless, even if nothing changed in practice, everything would be different. Knowing that it had full sovereign rights over language and culture, Quebec would feel secure. It could contemplate its future with assurance.

In the forthcoming constitutional negotiations, Quebec will no doubt have claims that go beyond language — claims to immigration and social security and economic powers. But language is the crux of the problem. Giving unrestricted powers in the linguistic and cultural fields to Quebec, even if Quebec does not ask for such powers, is the key to the survival of Confederation.

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Linguistic security — or status and power?

I would like to underscore the strength of nationalism in Quebec. I am not sure that the main issue is cultural anymore. Many people in Quebec are confident that linguistic preservation is now assured. They believe that there is no real threat unless something drastically changes.

Instead, the dynamic is one of status and power. It is the fun of running your own country. If you talk to Quebec intellectuals, that is what they want. This nationalism is very important.

JEAN LAPONCE
Department of Political Science,
University of British Columbia

It may be that, in Quebec, the language issue is not perceived as being as important as it once was. But we must consider Quebec's low birth rate. We must consider that many immigrants will arrive into that society. We must consider that we do not know where population movements will take place. It is very important that we assure the security of the group that needs it. Even if Quebec does not request the Pepin-Robarts formula, English Canada should give it. Otherwise, separation is in the making.

THE CHARTER OF RIGHTS AND QUEBEC'S ROLE IN CONDITIONING CANADIAN SOCIAL AND POLITICAL VALUES

Alan Cairns explores the fundamental impact of the Charter on Canadian constitutional politics and the differing interpretations of the Charter in Quebec and the rest of Canada. Katherine Swinton counters that we have not yet begun to understand fully the interactions between differing conceptions of rights — and the resulting complexity of citizens' attitudes.

ALAN CAIRNS
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The Charter's significance is misunderstood

This country's political elites have misunderstood the significance of Charter of Rights, particularly its significance in English Canada. I want to talk about its effect on constitutional politics.

My first point is that the Charter has clearly stimulated citizen participation in the constitutional arena. The Charter supports the idea that the constitution does not belong to governments. That idea was at the base of a tremendous amount of opposition to the Meech Lake Accord. Instead, the Charter has generated the impression among the citizenry, particularly among the elites, that the constitution belongs to them and that they are legitimate participants.

The Charter has also stimulated organizations that are devoted to the protection and enhancement of particular constitutional clauses. These groups supplement their diffuse defense of the Charter with the defense of particular clauses. Women's groups, for example, defend section 28. Ethnic-cultural groups defend section 27. Minority language groups defend section 23. The Charter has catalyzed a group of "single-clause particularisms" into political existence. You could refer to it as "constitutional minoritarianism": a bunch of actors devoted to the protection and enhancement of their niche-identity status in the constitutional order.

"Charter communities"

Second, if one looks at the organizations that participated in the Meech Lake fora of Manitoba, New Brunswick, Ontario, and the federal government, one is struck by the fact that the organizations were overwhelmingly drawn from two basic categories: aboriginal organizations and organizations representing Charter communities. These organizations dominated the expression of organized interests. The federal committee on the constitution, for example, heard from the following: 18 organizations speaking for aboriginal peoples; 11 organizations representing linguistic lobbies; nine organizations representing women; six organizations representing commercial interests; three organizations speaking for multicultural groups; and two organizations speaking for trade unions. As a result, the constitutional debate in this country has been about issues of community — social issues, ethnic issues, linguistic issues, issues of gender cleavage. We have been talking about international economic globalization and other economic factors as design considerations for constitutional change. It is remarkable how these economic factors have been almost completely absent from the constitutional debate. In fact, the big economic actors have had limited input. This pattern of interest-group representation contrasts dramatically with the "business-labor-government" structure of Quebec's Bélanger-Campeau Commission.

"Roving Canadianism"

Third, among its believers at the citizen level, the Charter generates a "roving Canadianism". It sets up a constitutional norm by which to judge the behavior of other governments in other jurisdictions. In other words, because rights are seen as Canadian rights, the Charter psychologically involves all Canadians in the internal affairs of other jurisdictions when Charter rights are involved. Logically, this is more of a constitutional restraint on provincial governments than on the federal government: the simple existence of the federal government means that Canadians become involved in the affairs of their fellow Canadians when those affairs are under federal jurisdiction. For individual provincial governments, however, the Charter has created critical external audiences who can now pass legitimate judgment as Canadians on government policies in other provinces. In pre-Charter times, it might have been simply a Quebec matter when Robert Bourassa used the "notwithstanding" clause to pass his legislation on the language of signs. In the post-Charter world, it was now a constitutional issue for all Canadians. In "rights" matters, accordingly the division of powers does not insulate provincial politics from external judgment. When Charter concerns are at stake, the watertight compartments of federalism completely disappear. Accordingly, it was to be expected that the "notwithstanding" episode gravely weakened support for the Meech Lake Accord outside Quebec.

Differing Charter visions

Fourth, the Charter's capacity to generate a "roving Canadianism" is not confined to normal politics. It inevitably inserts itself into the constitutional reform process if it appears that the Charter is threatened with a loss of constitutional status or if particular rights appear weakened. But the Charter has taken root unevenly in this country: very strongly in English Canada, notably among the elites of the organizations that have particular identities with special clauses; much less strongly among the majority of Quebec francophones, including Quebec francophone elites. The failure of the Meech Lake Accord is only explicable when we appreciate how the Charter's deep roots in English Canada have had major consequences for the constitutional reform process: for many English Canadians, the Charter has become the focal point of their constitutional identity, providing a vision of a country whose citizens possess equal rights.

As I listened to Raymond Breton, I was struck by his assertion that English-Canadian identification with the Charter may be a product of the fact that English Canadians have lost a government with which they could identify. In other words, the Charter plays a symbolic role because it supplies an identity which was once rooted in the historic possession of the federal government. Perhaps the Charter is less necessary for francophone Quebecers because they have a government.

Fifth, the Charter limits the flexibility of federal and other provincial governments in their response to Quebec. Quebec's demands for preferential treatment are likely to involve the Charter. For Quebec political elites, the Charter has had an especially deleterious impact on Quebec's language regime because it has restricted the choice of policy instruments that could protect a beleaguered linguistic minority. The "distinct society" clause in the Meech Lake Accord was an attempt to escape those restrictions. But the Charter is now linked with the English-Canadian concept of citizenry. That linkage ensures that it is difficult for political leaders outside of Quebec to convince their citizenry that an asymmetrical application of the Charter is sound constitutional policy. Thus the Charter sets constraints on the negotiating capacity of governments outside of Quebec to respond to Quebec with solutions that would produce an asymmetrical federalism. This response in English Canada is not a rejection of Quebec. Instead, it is the projection of a competing Charter-infused vision of Canada.

An asymmetrical Charter?

Sixth, asymmetrical federalism is more complicated than we have conventionally assumed. Indeed, we must broaden the discussion into three categories: the equality or inequality of the provinces with respect to their jurisdiction; the equality or inequality in the role of MPs —

which logically follows if we have unequal provincial jurisdictions; and the equality or inequality in the application of the Charter. Richard French [Government and Regulatory Affairs, Bell Canada] observed that the Charter did not get the correct balance of individual and collective rights. Could we have an asymmetrical Charter? Could we have one Charter regime in Quebec and a different Charter regime in the rest of Canada? Symbolically, that means that we would have asymmetrical citizenship. Asymmetrical citizenship, in turn, is difficult because the Charter has become a key component of citizenship among English Canadians.

Big change may be easier than small change

I want to conclude with two points. A big change is easier to accept than a small change. Let us consider changes that take Quebec out of the normal category of Canadian citizenship and out of the normal category of province. Those changes would immediately remove the concerns about Charter inequality because you do not expect the Charter to apply to citizens who belong to a different political arrangement. Quebec and *Québécois* would be on a different political plane to which Charter equality and provincial equality would no longer apply. Some big changes are less threatening than some small changes.

Lastly, the Charter indicates how dramatically constitutional culture can be changed within a short period of time. Look how quickly the Charter has taken root in English Canada. Czechoslovak President Vaclav Havel constantly reminds us: "Do not assume that what you see out there represents reality in some immutable fashion." Flexibility lies behind seeming conformity.

THOMAS J. COURCHENE
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The Charter as a centralizing force

I believe that global-driven economic decentralization is being met by recentralization related to the Charter. That is, the traditional territorial cleavages are being replaced by nonterritorial, pan-Canadian cleavages created by the Charter. In our old federal-provincial sense, the Charter may be viewed as inherently decentralizing because it transfers power from the federal and provincial governments to the people. It is centralizing, however, because it is going to set limits on the diversity of treatment by provincial governments. Thus it strengthens the Canadian identity as opposed to provincial identities. Part of what led to the collapse of Meech Lake was the juxtaposition of global, fiscally driven decentralization and social, politically driven centralization.

KATHERINE SWINTON
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New actors, new identities

I want to address two societal changes that will affect constitutional reform: the claims of new groups for participation and the emphasis on judicial protection of constitutional rights. First, if I were to describe a typical political actor from my youth in the late 1960s, I would conjure up a picture of a white male, either English speaking or French speaking. Since I lived in Western Canada, I might have given him a Ukrainian or a German name, rather than an English or a French name. In the 1990s, that image of a political actor is unacceptable to a large number of Canadians — to women, to aboriginal peoples, to the disabled, and to members of visible minority groups. These groups are all conscious of their political identity. And they claim a right to speak and to be heard in the political process.

We were changing even before the Charter

Alan Cairns attributes this political consciousness largely to the entrenchment of the Canadian Charter of Rights and Freedoms in the 1982 constitution. In fact, that consciousness was emerging throughout the 1970s as members of these groups began to realize their disadvantage — and to challenge the social structures that created barriers to their equality. This consciousness raising has resulted in a call for change in the content of our political discourse and in the institutions that govern us. Past political discourse focused on the relationship between French and English Canadians and on the tensions between regions. Members of these newer groups prefer to form coalitions across regional or linguistic lines. As well, they ask that any new political arrangements take into account the impact on them — so that their historical disadvantages are not increased.

Second, these groups often voice their claim to be heard in terms of rights. That claim was made legitimate and powerful with the entrenchment of the Charter in 1982. The Charter is an important symbol for these groups. It is also a powerful political instrument, effective in changing laws and lobbying politicians. But it is not only these "Charter Canadians", as Alan Cairns calls them, who have been affected by the entrenchment of the Charter. That document is also a powerful symbol for many other Canadians, especially English Canadians, who see it as an important safeguard against governments. With the Charter, we have become a society that sees its social contract based, at least in part, on a new concept of popular sovereignty — that is, certain rights are reserved to the individual (or perhaps to groups) and protected from state encroachment, at least to some significant degree, by the courts.

What do these two developments — the consciousness of new political identities and the language of rights — mean for the future of constitutional reform? The Meech Lake process revealed that we can expect certain tensions because of these societal changes.

Differing conceptions of rights

As the first major tension, it is clear that we have much to debate about the nature of our constitutional rights in Canada. We must come to terms with the role of "community" in the definition of rights. That will not be easy. Our constitutional literature and theory on rights are in a stage of infancy. There is much disagreement on the content of these rights. We began an important debate about the nature of constitutional rights with the entrenchment of the Charter in 1982. That debate continued throughout the Meech Lake process. One of the important lessons of the Meech Lake process is the need to discuss the interaction between concepts of community and concepts of rights in Canada. The courts will help us with this discussion. But parallel discussion must occur in the political forum.

In the Meech Lake process, for example, there were two groups of critics of the "distinct society" clause. Many argued that the clause allowed rights to be different in Quebec — and that rights must be the same throughout the country. This criticism echoed the view of the Trudeau government that constitutional entrenchment of rights would be a nationalizing influence because all Canadians would share the same rights safeguarded by a national institution, the Supreme Court of Canada.

Other critics opposed the "distinct society" clause because it gave primacy to the interests of a particular group or community in preference to the interests of individuals. That is, Quebec's aspirations to safeguard a francophone linguistic community might take priority over the rights of ethnic Canadians to choose their language of work or education. These critics saw no basis for group rights in our constitution.

I believe that concepts of community and group rights should, and do, enter into the interpretation of the Charter. Indeed, both the 1867 and the 1982 constitutional documents give different rights to different groups, sometimes to groups with a territorial base. I cite denominational education rights in section 93 of the 1867 constitution, aboriginal rights in sections 25 of the Charter and section 35 of the *Constitution Act, 1982*, and the minority language rights in section 23 of the Charter. Group rights are not an alien concept in our constitutional history. Section 1 of the Charter, the "reasonable limits" clause, clearly allows the interests of collectivities to be weighed against the rights claims of individuals.

That debate about the "distinct society" clause demonstrated that there are powerful and strongly held competing views of the Charter's content. We are going to have to continue to debate, over our life times, whether the "distinct society" clause is a departure from our heritage or part of our heritage. The competing views are divisive: *Québécois* in the past have emphasized communitarian values; strong opposition to that emphasis was found among those English-speaking Canadians who either demanded a uniform application of rights or a liberal, rather than communitarian, approach to their application.

The question of the override

Another tension in this debate about rights is the question of whether Charter rights must be nonderogable. That is, should we preserve the "notwithstanding" override in section 33 of the Charter? This is also a question about who should protect our rights: courts or democratically elected institutions. Do we see our rights protected by courts, litigation, and confrontation or are we willing to say that the Charter speaks to our political institutions — and our political institutions speak for us? Many "Charter Canadians" are opposed to the override. They see it as a dangerous tool for parliamentary institutions — and they often argue that those institutions do not adequately represent their interests. Other Canadians see the democratic process and the override as a necessary protection for their rights. They refuse to trust the Supreme Court to provide the necessary safeguards or to articulate correctly, in all cases, the proper balance between competing interests in the interpretation of the Charter. This is clearly the view in Quebec. But *Québécois* are not alone. There are many individuals who are concerned about preserving the override in order to protect the freedom of democratic institutions, rather than appointed judges, to ultimately determine the values of our society.

Multiple identities / multiple views about rights

Finally, we must think about the complexity of rights in the constitution. I believe that Alan Cairns must elaborate on the role of Charter minorities: he must discuss not only their concept of rights but also the legitimacy of their interpretation of the constitution. There seems to be an assumption in the literature and in political debate that people are defined by one characteristic. The vocal representatives of minorities, for example, appear to concentrate on one characteristic such as sex or race. But individuals have multiple identities. At various times, they will place different weight on a particular aspect of their identity. A native woman in Edmonton, for example, may not share all views on equality for natives or for women that are felt by men and women on a reserve, let alone by a non-native woman. In the Meech Lake debate, Quebec women chose to place greater value on the "distinct society" clause than on what they perceived to be minimal and perhaps nonexistent threats to gender equality.

As we enter the next round of constitutional discussion, we must recognize that there is not always agreement on the content of rights. Even individuals who share the characteristics of Charter groups do not always agree. Indeed, the definition is debatable — and specific to a time and country. Groups that claim ownership of the Charter provisions that give status to minorities may have a controversial and/or limited vision of the meaning of, and the priority among, constitutional rights.

Group representation, the Charter, and parliamentary government

A second major tension in the constitutional debate revolves around the representation of groups. There can be no doubt that the political process must be more sensitive to the needs of those who are traditionally excluded from political participation. Too often, our laws have reflected stereotypes about — or hostility to — certain groups. Too often, our laws are made with the image of the relevant actors as white, able males — without any consideration of the way that such apparently "neutral" laws can harm women, minorities, and the disabled. In the future, we must be sure that these voices are heard — as they will rightly demand to be heard in a society committed to equality.

We must first consider how to increase the participation of these groups in our institutions. Is it always necessary to seek such constitutional solutions as seats for women and aboriginals in the legislatures or the Senate? Are there less formal and more flexible ways of involving these groups through changes in political parties, government appointments and consultation mechanisms? Will we entrench cleavage if we keep emphasizing constitutional rights as opposed to more informal mechanisms? These groups are distrustful of the political process that has too often ignored their voices. They may wish to enshrine legal rights — but the process may be costly and divisive.

As well, we must ask ourselves if the claims of these groups are inconsistent with the federal model. These groups have been very distrustful of parliamentary institutions, and especially of provincial governments. The latter were seen as negative forces to the entrenchment of Charter rights prior to 1982. These groups also seem to form alliances that are not confined by regional boundaries. Is it possible to persuade these groups that federalism is not inimical to their interests? Indeed, federalism, with its multiple pressure points, can be a positive force for political participation. It can help groups to achieve many goals. I cite three examples: provincial experimentation with legislative initiatives, such as pay equity, that other jurisdictions may emulate; provincial representation of group interests at the national level, such as the activities of the Ontario New Democratic Party government with regard to abortion; and group access to different provincial legislatures to stop constitutional changes such as the Meech Lake Accord. Federalism, in Canada and elsewhere, has often been valued as a system of government that protects individual rights.

Individuals are members of more than one community

Finally, with respect to the representation of groups, we must ask how we determine the relevance of group identity to debates about Canada's constitutional future. This goes back to my point about the complexity of rights — and the degree of diversity among group members. While we want to hear from voices that have been excluded, we must remember that individuals are members of more than one community. They will make different decisions about the salience of particular characteristics in different ways. I do not want to lose the voice of women or aboriginals in the process. But although we have to keep thinking about the involvement of these groups, we must not, for example, think of men and women as separate on all points of view when they may share interests along professional or class lines. Many members of these groups would reject a redesign of our parliamentary institutions to emphasize a characteristic such as sex or race. They would see such a redesign as divisive and inappropriate.

Finally, the changing demographics of Canadian society, particularly its increasing ethnic and racial diversity, have increased the pressures for government support for multiculturalism. Inevitably, the demographics will also increase hostility to a language policy that gives special status to the French language, especially outside Quebec. For immigrant groups who had to learn a new language, it is difficult to understand the claim for special protection of French that is asserted by the Quebec government.

ACCOMMODATION OF ABORIGINAL INTERESTS

In recent years, the constitutional position of the First Nations and their search for self-government have moved to the center of the constitutional stage. At one level, they fundamentally challenge the concept of a Canada of "two founding peoples", French and English, and assert the primacy of dealing with historic aboriginal claims. At another level, however, the search for self-government has many parallels with Quebec's aspirations for self-determination. Progress on the constitution is likely to be rendered much more difficult if we persist in asking the question: "Who is first in line for constitutional redress?"

DONNA GRESCHNER
College of Law,
University of Saskatchewan

The consequences of ignoring the First Nations

One lesson of the Indian summer of 1990 is that the non-aboriginal population of Canada ought to take into consideration the aboriginal peoples from the very beginning of any constitutional deliberations.

I first want to stress that no one may be able to ignore that lesson much longer. The aboriginal peoples will not fold their tents and steal silently away. Rather, their metaphorical tents will grow in size, number, and diversity of dwellers, occupying more territory and rendering detours impossible. That increasing significance derives from several factors. First, aboriginal people are motivated, frustrated, and they mean business. Half of the First Nations' population is under the age of 25 — and that proportion of the population is growing at a phenomenal rate. The youngsters within the aboriginal population are losing their patience. When [Assembly of First Nations national chief] Georges Erasmus states that he is the last of the patient leadership, and he is in the first half of the baby boomer category, he is not issuing a threat. He is describing reality. He is giving a warning. If we do not listen willingly, aboriginal peoples will force us to pay attention with more blockades, rallies, sit-ins, and other forms of resistance.

Second, aboriginal peoples have increasing significance because they are developing coalitions with other disempowered groups, such as the feminist movement within Canada. That link was clearly shown during the aboriginal blockade of the Meech Lake Accord. Aboriginals also have connections with the increasingly powerful environmental movement because their concerns about resource development often mesh. Witness the joint efforts of the Grand Council of the Crees and environmental groups to stop the James Bay Two hydroelectric project in northern Quebec. It would be far too simplistic to dismiss that support as motivated, in large part, by prejudice against Quebec.

Third, aboriginal claims are acquiring additional strength because they correlate with those of Quebec. The more that Quebec deploys the rhetoric of distinctiveness and self-determination, the more that the First Nations gain credibility and public support for their struggle. As [Manitoba MLA] Elijah Harper and the Assembly of Manitoba Chiefs argued in June 1990, aboriginal peoples are as much, if not more, distinct than the people of Quebec. They have a worse history of oppression and disadvantage than Quebec. No one can deny that the policies of assimilation and cultural genocide practised against them were abominable. As well, aboriginal peoples do not have a province, with its territory and government, to serve as a shield from insensitive alien governments and to be an instrument and manifestation of their nation.

Land and economic power

My next point is that the First Nations understand that their struggle, like the struggle in Quebec, is, at bottom, about economic power. The settlement of land claims and the development of self-government mechanisms involve the redistribution of control over a significant amount of resources. Land is now to aboriginal peoples what language is to Quebec — because aboriginal peoples have been denied significant segments of territory for a long time. That denial has been deeply destructive of aboriginal culture. It has also been economically murderous. The crisis at Kanesatake was not about a golf course and a few Warriors. It was about the opposition by the Grand Council of the Crees to the second stage of James Bay hydro development. It is hard to believe that Robert Bourassa failed to understand that any step toward recognizing the sovereignty of the Mohawks would strengthen the hand of the Cree Nation in the fight against the development.

The litmus test

My third point is that the claims of the First Nations are the litmus test for our commitment to a politics of principle and pluralism. It is simply "size" that differentiates Quebec from the First Nations. Will we in Quebec and the rest of Canada continue to play politics according to the maxim, "Might makes right"? That is, will we again permit the tanks to enter or will we deal with aboriginal claims with some compassion? How we deal with the aspirations of the First Nations will be a mirror for, and perhaps a precondition for, how we deal with the claims of sovereignty of Quebec. If we cannot find justice in sovereignty for the most dispossessed, we are not going to find it in our hearts to do anything for Quebec.

Finally, I want to point out the extraordinarily complex position of aboriginal peoples within Canada or within what may be new countries after the breakup of Canada. It is not for me to say whether the First Nations would prefer the existing Canada or whether they would support an independent Quebec. It is fair to say, however, that aboriginal peoples place great importance on their relationship with the Crown. They would be understandably concerned that the Crown's special fiduciary obligation to aboriginal peoples could be dissipated or eliminated within a separate Quebec. Based on their history, aboriginal peoples have always had very difficult dealings with provincial governments. Many, if not most or all, of them refuse to recognize a provincial Crown. As well, with respect to Meech Lake, the Assembly of Manitoba Chiefs fully supported recognition of Quebec's distinctiveness. They were convinced, however, that such recognition would be harmful to their interests unless the distinctiveness of aboriginal peoples was also recognized. The First Nations may support the sovereignty aspirations of Quebec. But they are concerned that the possible breakup of Canada could threaten their own distinctiveness and their own sovereignty.

What will be the impact of aboriginal peoples in the future constitutional process? They have already helped to implement major change. The stand of Elijah Harper and the Manitoba Chiefs ended any continued legitimacy for the "Two Nations" concept of Canada and for the elitist constitutional process controlled by First Ministers. Aboriginal peoples acted, and will try to continue to act, as spoilers and "delegitimizers" of any deal that is struck without their involvement.

Flexible concepts of sovereignty

In response to aboriginal aspirations, different forms and degrees of sovereignty are required. Aboriginal peoples may benefit directly from the revitalized assertiveness of Quebec separatism and the resulting discussions about alternate models of constitutional arrangements. In our response to Quebec, we need to deal imaginatively with the concept and practice of sovereignty. We must reject thinking about sovereignty as an all-or-nothing proposition, as a rigid box of insularity and independence. That was the view of sovereignty in the last century. The more that we now view sovereignty as a matter of degree — and international forces may prevent us from doing anything else — the more that we may be able to deal creatively with the demands of aboriginal peoples.

A warning

The competing claims of sovereignty do, however, present dangerous and unwelcome scenarios for Canada's future. What if Quebec issues a Unilateral Declaration of Independence? What if the Grand Council of the Crees and the ten other aboriginal nations within Quebec decide to declare independence from Quebec — either because they want to remain in Canada or because they want to form their own state? Let us assume that the Cree Nation blocks roads and takes up arms to dissociate itself. Quebec calls in its new army to put down the secession. Fighting begins. Does the rest of Canada allow Quebec to use force against the Grand Council of the Crees? Does the rest of Canada watch aboriginal peoples being injured and killed? Or will the claims of aboriginal peoples be the spark for violence and force? Why are Quebec's provincial boundaries automatically accepted as the borders of an independent nation? Can a new nation subsume, without question and by force, another nation within it? Are all past commitments erased?

Alan Cairns [Department of Political Science, University of British Columbia] has defined "Canada without Quebec" and "Aboriginal Self-Government" as the two taboo subjects of constitutional discourse.

I wish to add a third: the use of force and violence in keeping Quebec within Confederation. Debates about the future of Quebec operate on the unspoken premise that we will be able to resolve all differences peacefully and rationally. Perhaps the summer of 1990 ought to dispel our innocence. One lesson from the Mohawk Nation crisis is how close to the surface reside violence and the exercise of brute physical force.

ROGER GIBBINS
Department of Political Science,
University of Calgary

Aboriginal peoples could block a new Quebec round

The First Nations will contribute in a very critical way to the collapse of the constitutional process in Canada because the First Nations will ensure that constitutional change must be global. There cannot be another "Quebec round". Therefore, I would argue that constitutional change will probably be impossible. Aboriginal peoples will contribute to the collapse of the constitutional project.

Second, if Quebec withdraws from Canada, the remaining political community would be unilingual — and it would have a much greater immigrant population. I would argue that the remaining political community would be less sympathetic to aboriginal claims and aspirations than the present Canada. Therefore, the collapse of Canada has some significant and potentially negative implications for aboriginal peoples in Canada.

REG WHITAKER
Department of Political Science,
York University

Quebec, aboriginal peoples, and competing sovereignties: A debate

First, I want to respond to the notion that "if we cannot give sovereignty to our most dispossessed group, how can we find it in our hearts to do anything for Quebec?" That misses the point. It is not a question of our giving sovereignty to Quebec. Quebec will take sovereignty. Instead, we should examine the moral claims of native people. We should see those claims as distinct from the *realpolitik* power of those who can enforce their claims to sovereignty. Second, everybody ought to be very disturbed at the notion that those in the rest of Canada who are unwilling to accept Quebec's sovereignty would, in effect, use native people in the province of Quebec as a lever to intervene. That is not only dangerous but possibly pernicious. Finally, one can greatly exaggerate the position of native people in Quebec *vis-à-vis* native people in the rest of the country. By many measures, the native people of Quebec are better off. Certainly they do not populate the prisons to the degree that they do in Western Canada. I do not think that anybody should exaggerate the dangers to native people in a sovereign Quebec.

DONNA GRESCHNER
College of Law,
University of Saskatchewan

A group can only take sovereignty if we do not bring in the military against them. I do not think that we can ignore the force of the military.

STEFAN DUPRÉ
Department of Political Science,
University of Toronto

Sovereignty requires international recognition

Quebec cannot *take* sovereignty. Let us consider the conventional law of secession. The Quebec National Assembly can, unilaterally, at any time that it wishes, declare its independence. On that day, nothing else will happen. Quebec has to go through the process of being recognized by someone with an international personality before it can maintain that it has an international personality.

This distinction is of great interest to aboriginal peoples because Quebec is seeking as much recognition as possible from other international actors. Surely the Crees and other aboriginal groups will intervene in this process. They will retain the proper counsel to go before the United Nations. They will ask that the international community clarify such questions as Quebec's proper geographical size before it recognizes Quebec. Aboriginal peoples can, and undoubtedly will, have a major impact on change if we go the constitutional law route. It is equally true that they will have a major impact in terms of vetoing or structuring change if we go the international law route. That offers the interesting thought that the First Peoples of this country could wind up keeping the country together.

RICHARD FRENCH
Government and Regulatory Affairs,
Bell Canada

Dangers in attempting to blend Quebec and aboriginal issues

My first point is that native people are an excellent example of why constitutional change is inevitable. It is *not* because of the deficit or the debt. Rather, there has been a loss of faith in the collective legitimacy of the distributive mechanisms underlying Canada. Obviously, native people are a group with good title to a sense of grievance in this regard. A large number of groups in Canada feel as keenly, if not as justifiably, that they have been mistreated. That is why change is inevitable.

My second point is that I cannot imagine what Donna Greschner [College of Law, University of Saskatchewan] would say if somebody said something as patronizing about Indians as she said about Quebec. That notion of "doing something for Quebec" is a form of paternalism that has no place here. Even worse was the implication that Quebecers have somehow done worse by their native populations. It is unfortunate that this discussion has begun with the notion that an independent Quebec would treat native people less fairly or that English Canada would use the native people of Quebec as an appropriate lever to accomplish something else.

Quebec is going to be a potent force for change. But the lesson of the Meech Lake debate is that the internal differences within the Canadian political community about issues such as the treatment of native people are at least as great in the absence of Quebec as in the presence of Quebec. We would fail to envisage the task before the rest of Canada if we mix these other ills of the Canadian body politic into the Quebec problem on a systematic basis. We are going nowhere if we persist in assuming that Quebec is somehow less adult and less able to look after the political challenges that all political communities in the country are facing.

ANDREW PETTER
Faculty of Law,
University of Victoria

Whose claim has primacy?

I share the disquiet over references to Quebec's being "given" sovereignty or to "doing something" for Quebec. But there is also a hidden assumption, and an equally disturbing suggestion, in two other references: that natives are being used as a pretext to interfere in Quebec; and that the position of natives in Quebec is not so bad relative to the rest of Canada. The hidden assumption is that the claim of Quebec to sovereignty is primary to the claim of aboriginal peoples. Let me recast the example presented by Donna Greschner. Let us assume that Quebec declares sovereignty and, at the same time, native peoples declare sovereignty. In the areas where the two claims overlap, with whom does the rest of Canada negotiate? Whom do we accommodate? I do not think that we can assume, as Reg Whitaker assumed, that we simply sit down with Quebec. There is an underlying question about whether the Quebec claim is primary to the aboriginal claim.

DONNA GRESCHNER
College of Law,
University of Saskatchewan

We cannot ignore the possibility of force

I want to reply to the points of Reg Whitaker and Richard French. I am sorry if you interpreted me as saying that Quebec treats its aboriginal peoples worse than other provinces. Suppose that we accept that Quebec treats its aboriginal peoples better than other provinces. I simply wanted to say that the aboriginal peoples in Quebec may not want to go with Quebec — for whatever reason. That raises the question: With whose sovereignty do we side?

I painted my scenario in a forceful way because I wanted to raise the issue of force. I wanted to paint a scenario that has the potential of creating violence. We cannot ignore the events of last summer. It ought to be disturbing that tanks were summoned to settle the problem. We cannot blindly pretend that force is not part of the Canadian tradition. When we imagine constitutional futures, we have to keep that in mind.

THOMAS J. COURCHENE
School of Policy Studies,
Queen's University

A province of aboriginal nations

I have suggested that perhaps we should make the reserves into a "fax machine" province. The reserves would be land-related but not contiguous. [*Globe and Mail* Ottawa correspondent] Graham Fraser told me that he looked in the government telephone book after he read my suggestion. He concluded that the Department of Indian Affairs is run like a province. There were departments for education, transport, and social services. We now have a province run from Ottawa. Perhaps it should be a province run by the natives.

CHRIS BREDT
Lecturer, Faculty of Law,
University of Toronto

We must note that there is diversity within the aboriginal group. We have been talking about the First Nations. Let us examine, for example, the native province proposal. What about nonstatus natives? How do you deal with a people without land bases? How do you deal with aboriginals who live in Toronto? It is important to take into account the range of what is possible — and the range of what is demanded.

SALLY WEAVER
Department of Anthropology,
University of Waterloo

Reconceptualizing relations between First Nations and the state

First, the concept of "two founding peoples" is intellectually hostile to the ethnic plurality of Canada. It is a fallacious myth that needs to be eradicated if we are going to realistically conceptualize our society as a first step to rethinking our future. Aboriginal people, for example, did not co-negotiate the state. But they certainly contributed territory and they co-prepaid services. We need to reconstruct the "two founding peoples" myth.

Second, we could strengthen the participation of aboriginal peoples in future constitutional conferences through an analysis of their past experience in the conferences of First Ministers. There was a series of four post-patriation meetings that were intended to identify and to define the "existing aboriginal and treaty rights" in section 35 of the Charter of Rights. Part of the problem with those conferences stemmed from the fact that some governments lacked political will. I firmly believe, however, that the process itself was seriously flawed. We must identify and explain the lessons from those four conferences if we want to reenter sensible accommodation at the federal-provincial level.

Third, we must not carry culture-bound concepts about sovereignty and self-government into the analysis. Indian policy in Canada is incapable of embodying new ideas about Indian self-government within a federated Canada. The current policy paradigm has shown paralysis when it comes to generating negotiated self-government: Only nine or ten bands of the 594 bands in Canada — 1.5 percent of the First Nations bands — now operate under self-government. Rethinking the future of Canada requires that we reconceptualize the relationship between First Nations and the state. The essence of that relationship will have to be self-government and real empowerment.

Aboriginal home rule is a global phenomenon

Fourth, internationally, aboriginal peoples are moving toward self-rule or home rule. Although the globalization of indigenous political concepts is at the incipient stage in the United Nations, it will increase. The United Nations is looking at standards to deal with aboriginal people. Canada will be under growing pressure to recognize these emerging standards.

Fifth, we must examine critically other nations' practices. The New Zealand Parliament, for example, has four separate seats for Maori peoples. That has a symbolic attractiveness. Studies reveal, however, that the Maori are marginalized by the process: they are "compartmentalized" from the real power of the New Zealand Parliament; and they are underrepresented since the original number of seats has remained fixed despite the proportional increases in the Maori population. Our homework has been sloppy. We must get out of romantic notions and into hard comparative work. In the United States, for example, there is recognition of semi-sovereignty. It is important that we accommodate such notions as we work out innovations.

Sixth, judicial policy from the courts, rather than political policy, is setting new principles for the construction of a new Canada. Politicians are shocked by the notion that aboriginal rights will continue to evolve, rather than remain fixed. They are also shocked by the notion that the federal government has a fiduciary obligation to the First Nations — and that it should cease its adversarial posture. The courts will, in fact, exact reforms that will require the politicians to be courageous and flexible. Politicians must not remain glued to concepts of the state that reify ethnocentric notions of decisionmaking. In short, we must be culturally imaginative, not just politically imaginative.

SESSION THREE

THE POLITICAL DYNAMICS OF FUTURE CONSTITUTIONAL DISCUSSION

Once we decide where we want to go, how do we get there? How do we forge a consensus on how to amend the constitution?

SESSION THREE:

THE POLITICAL DYNAMICS OF FUTURE CONSTITUTIONAL DISCUSSION

New ways have to be found to forge consensus

What are the likely political dynamics of future constitutional discussion? It is one thing to figure out where we want to go. It is quite another to figure out how to get there. Throughout our history, discussion of constitutional futures has been bedeviled by lack of consensus on the appropriate procedures for amending the constitution. At present, we must work within the constitutional amending formula enacted in 1982. While it is virtually impossible to amend that formula to render it more democratic and more effective, it does not preclude much innovation in methods of enhancing citizen participation and in forging consensus.

The discussion also shows that much change in the Canadian federal system could be — and has been — achieved without formal constitutional amendment. If Quebec opts for independence, we will be forced to deal with wholly unpredictable extra-constitutional procedures.

CHAIR:

PETER LESLIE

Department of Political Studies, Queen's University

We turn now to the political dynamics of future constitutional discussion or, as I prefer to term it, an examination of the "process" issues that will lead us to an unknown future.

Do we work with the existing formula?

We are focusing on the process without having specified the possible outcomes. There are good reasons for proceeding in this order. First, we already have a framework in place in the *Constitution Act, 1982* — and that framework is reasonably constraining. During the last round of major constitutional change, between 1976 and 1982, there was a lot of room for fudging the process. Now there is much less room: we have a much more precise process.

Second, the established process can be changed, blown out the window, by the actions of essentially one party. That is always an undercurrent in any discussion of political dynamics and process. Look at this session's agenda: the problems with the 1982 amending formula; the demand for greater participation; who speaks for the rest of Canada? That agenda presupposes that we continue to operate within the framework that the *Constitution Act, 1982* established. As long as that remains the case, the "default" option — the outcome that results from failure to get anywhere else — is, in fact, the status quo. That is, if we cannot change the constitution under the existing rules, we stick with it. The question is: How far and in what direction can we move while we continue to respect those rules?

There is always the possibility, for course, that the mould will be broken. On the one hand, there could be a decision to break the mould as the outcome of a process of discussion. On the other hand, the break could come fairly early: to use an analogy, it takes only one party to wield the hammer. As a result, an undercurrent of our discussion, which is framed within the existing rules, must be: What happens when and if the *Constitution Act* is violated? What happens when and if there is a form of Unilateral Declaration of Independence? What happens when and if there is an action that is inconsistent with the terms of the *Constitution Act*? What happens, for example, if the Quebec government disregards certain rulings of the Supreme Court of Canada? If that happens, then the "default" option changes. Once you have broken the rules, the "default" option becomes independence for Quebec.

Or will Quebec break the mould?

Then there is the question: What kind of new arrangement might be worked out? Will it be ten independent countries or four or five independent countries or one other country? In that sense, the outcomes are directly linked to process questions.

In summary, this agenda is predicated on operation within the existing rules. But there is a very real possibility that those rules will simply be disregarded at a certain moment. If the rules are violated, we will be in a completely different ball game.

THE DEMAND FOR GREATER PARTICIPATION

Why greater participation is essential — and how it could be achieved.

KATHY BROCK
Department of Political Studies,
University of Manitoba

The nature of constitutionmaking in Canada is changing. In the wake of the Meech Lake experience, there is demand for much greater public participation in this process.

Participation and the changing Canadian society

That demand has two components. First, the number of actors in the constitutional reform process has expanded. As Alan Cairns [Department of Political Science, University of British Columbia] has documented, the Meech Lake process revealed that, since 1982, the constitutional agenda, the decisionmaking process, and the output are no longer the exclusive prerogative of 11 governments. Aboriginal organizations, ethnic and racial minorities, and women's groups are among those who are asking that the process and any resulting amendments reflect the diversity within Canadian society.

Second, many citizens, individually and collectively, are calling for a more open process of constitutional reform. Criticism of executive federalism and of the Meech Lake process of constitutional reform has been extensively documented. As research director of the Manitoba Task Force on Meech Lake, I was struck by the amount of criticism directed toward the process itself. Ninety-six of 289 presenters substantively criticized the process. Only six presenters defended the process. Most presenters desired more public involvement in the process. Many also expressed concern about the lack of public information on the accord. They had a thirst for knowledge that was not quenched. It was my impression that the lack of information, education and debate heightened the distrust of the accord.

Are these public demands for a more inclusive and open process unreasonable? One popular answer suggests that they are: "Had women's groups and aboriginal groups and ethnic groups been willing to support Meech Lake, then their concerns might have been taken into account in future rounds of constitutional change." That answer implies that the Canadian political union is fundamentally about governments and specifically about the French-English compact. It implies that the terms of the 1867 settlement and Canada's subsequent history of political adjustment revolve around that compromise.

For nontraditional groups, that response is not satisfactory. The Canadian political union has evolved into more than that view. Pluralism, beginning with the French-English accommodation, was embedded in the political structure. [Former constitutional law professor] Frank Scott explained the importance of pluralism and the protection of minorities in Canada. He noted that "Canadian nationalism began with the theory of duality if not plurality of cultures." Specifically, he noted that Canada comprised aboriginal peoples, French, British, Germans, and Americans of all races. Thus, the "Canadian nation could be a political concept but not an ethnic one." Although the constitution was designed to accommodate the two principle groups, there was the possibility of expansion. As Scott said: "Out of these provisions emerges a constitution that fixes certain minimum guarantees for the different groups, leaving further expansion of minority rights to the good sense and fairness of later generations."

In other words, the constitution was framed to allow it to evolve to reflect the changing nature of Canadian society. The 1867 agreement was the minimum — not the maximum. Now aboriginal peoples and women's groups and ethnic and racial minorities are asking that more be considered. Quebec's special place or status in the Canadian political union cannot be denied. None of these groups is asking for that. By the same token, aboriginal peoples, ethnic and racial minorities, and women's groups cannot be denied their part in the process and in the end-product of Canada's constitutional evolution. In their eyes, to postpone consideration of their concerns while Quebec's concerns are being handled is tantamount to denying them a part in the process of evolution. As one politician reminded me: "Perception is reality."

The role of political leadership

It will be difficult to accommodate the demands of these new groups along with the demands of Quebec when they appear to be conflictual. But that accommodation is not an insurmountable task. The first step is to reconceptualize the role of political leaders and analysts. [John F. Kennedy School of Government lecturer] Robert Reich has offered advice that is of relevance to constitutionmakers:

> The responsibility of government leaders is not only to make and implement decisions responsive to public wants. A greater challenge is to engage the public in an ongoing dialogue over what problems should be addressed, what is at stake in such decisions and how to strengthen the public's capacities to deal with similar problems in the future.

This is a daunting task because it does not mean that you tally up people's preferences. It means that you must educate and enlighten the public. Analysts must not only offer "the best means of achieving a given objective" to leaders. They must also offer "alternative ways of understanding public problems and possible solutions and thus [exposing] underlying norms to critical examination." This means beginning a debate. Analysts must respect the past — but they must not adhere thoughtlessly "to outmoded formulations of problems, choices and responsibilities" that "threaten a society's survival." Together, political leaders and analysts should work toward preserving what is essential from the past while responding to new challenges and voices.

This form of leadership would have a positive effect on society. As Reich notes, if the process is "properly managed," it "can build on itself: as society defines and evaluates its collective goals, it examines its norms and beliefs; in defining its purposes, it becomes better able to mobilize its resources and achieve its goals." The voices raised in this process of self-examination may sound cacophonous and threatening to the harmonious order — because these are the voices that we are not accustomed to hearing. But if government leaders respond responsibly, then a new symphony of voices will soon be heard. Leaders have an obligation to search for a new basis of compromise in order to build a stronger consensus within Canadian society.

Reforming the process

How is this to be done? There are three practical ways to begin the process. First, the federal commission on national unity is a positive step. By listening to the visions, beliefs, grievances, and prejudices of

Canadians, the Spicer Commission will have an opportunity to examine the prospects for establishing a basis of national unity. The difficulty will lie in ensuring that Quebec is given special consideration — but not to the exclusion of other groups. The Spicer Commission must provide the basis for compromise among the provincial constitutional commissions and among citizens. It must sculpt a vision of Canada's future.

Second, once government leaders have fashioned an amendment package based on the commission's work, they must be prepared to explain and to justify their proposal to the public. A *fait accompli* cannot be presented to the public again without arousing more hostility and suspicion. Public debates and education programs may be of assistance. This implies, of course, that the proposal cannot appear to be a self-interested bargain among leaders. If it is to be justifiable, it must embody a vision of Canada's future. A constitution is a fundamental statement about a nation's identity, its beliefs, and its principles. Proposed constitutional changes must honor and enhance this statement.

Third, the role of Parliament and the provincial legislatures in the constitutional process must be respected and even strengthened. When a proposed constitutional amendment is submitted to legislative bodies for ratification, legislators must play a meaningful role. Meaningful legislative hearings and free votes on constitutional matters would allow this. Public education and responsible leadership would permit amendments to survive this test. Further, the general amending formula — Parliament and seven provinces with 50 percent of the population — will allow some latitude in favor of change on most matters. Those amendments which only divide the nation will fail.

The demand for greater participation does not mean a diminution of the role of political decisionmakers and analysts. Nor does it entail a callous disregard of Canada's past and its traditional cleavages. It does mean, however, that the roles of the constitutional players must be redefined. New actors must be allowed to play meaningful parts in the process of reform. If Canada's future is to be as promising as its past, the demand for greater participation cannot be ignored.

WILLIAM WATSON

Visiting Associate,
Americas Society / Canadian Affairs

Louder voices

We give tax-exempt status to lobbies. We also give them outright subsidies in many instances. In a way, we are subsidizing disputatiousness. It may well be that we do not need constitutional change to deal with that. We should just get used to the higher volume of discord. We can tolerate the symphony or cacophony that we are hearing. The volume is simply louder — and that is more or less inevitable. We should not worry about it so much.

JOHN CRISPO
Faculty of Management,
University of Toronto

Closed-door meetings are essential to negotiations

When it comes to public participation, I have never read so much nonsense in my life as I did during the Meech Lake episode. If people do not recognize that critical parts of any set of negotiations have to take place behind closed doors, I just give up. I spend most of my life in conciliation and mediation and collective bargaining. I know that there is no hope of resolving things in the public domain. Do you what happens? You pander to the public. You pander to the media. You play politics. You play games. You get nowhere.

I am not saying that you can afford to ignore the public — let alone the media and the malcontents in the opposition. The big mistake on Meech Lake was the First Ministers' mistake. They were so euphoric because they had all the provinces on side and because they had the three national leaders on side. They did not bother to explain Meech Lake or to defend it. So what did the media do? They looked for the hyenas and jackals. The people who negotiated this deal let the hyenas and jackals dominate the airwaves.

I am thankful that I did not hear Kathy Brock say, "We have got to have all this in public." That is crazy. I am not arguing against the fact that, at various stages of negotiations, you must inform people — within limits — of what you are doing. Ultimately, of course, everything has to be on the table — and it has to be defended and explained. I do not believe in referendums but perhaps we have to consider that option.

ROBERT PRICHARD
President,
University of Toronto

I would not test public participation by whether it allows us to exclude negotiations behind closed doors at some point in the process. Rather, I would test public participation by whether it makes those negotiations more legitimate than they were during Meech Lake.

CHRIS BREDT
Lecturer, Faculty of Law,
University of Toronto

At what stage should citizens participate?

The criticism about public participation in the Meech Lake process was really a question about "when". There are three stages to the process: agenda setting, formulation of specific amendments, and ratification. The criticism about the Meech Lake process was: there was no process *when* we made our agenda; there was no process *when* amendments were formulated. The process really came after the amendments had been formulated — that is, when we started to get into ratification.

When we think about public participation, we have to think about where it is useful. Where it is useful is earlier on — rather than later on, when the ratification stage comes.

DONNA GRESCHNER
College of Law,
University of Saskatchewan

In different voices

I listened to John Crispo with profound depression until I remembered that labor negotiation is not the only method of reaching an agreement. Last summer, in Winnipeg, I saw the aboriginal model of consensus decision-making in operation. That model has not been used in this country by non-aboriginal governments. Maybe we ought to think about it.

Second, I do not think that we should separate the process of constitutionmaking from the ordinary political process. Why is it that significant constituencies in this country such as the women's movement and aboriginal groups want to be included within the constitution-making process? In part, it is because they do not feel that they have a voice in parliamentary democracy. They feel that they have been harmed or, at least, ignored by the process. They believe that a different constitution would ensure a better future. So when we talk about process, we should think about process more broadly: we should think about how we can change the system of parliamentary democracy that we have inherited from Britain and that grew out of very aristocratic traditions within Britain. We want to make that process more responsive to the different voices.

J. PETER MEEKISON
Vice-President, Academic,
University of Alberta

Bridging the gap between negotiation and ratification

Public participation in some way is a "must" in the future. But, at some point, negotiations will have to take place. And these negotiations will have to be set down in writing. When that happens, people will start to pick the proposal apart. They will differ over what was — or was not — agreed upon. We will have to find a mechanism so that once an amendment is written, it goes straight to ratification or through a referendum or some other process.

ROGER GIBBINS
Department of Political Science,
University of Calgary

The darker side of participation

First, one of the consequences of public participation is that it will overload the constitutional agenda. Everyone will carry their own causes to the table. It is interesting to look at the Swiss and Australian comparisons where there is a referendum on constitutional amendments: the constitutional amendments tend to be very, very specific. One of the ways to encourage the system to break down is to encourage people to participate.

Second, we will hear from voices that we are not accustomed to hear. We must keep in mind, however, that we do not really want to hear many of those voices. In the Meech Lake debate in Western Canada, particularly in my own experience in Alberta, the public debate brought out many voices that I would consider marginal. As an example, consider the well-attended constitutional forum at Mount Royal Community College in Calgary. The opening question came from an elderly woman who said, "My husband was captured by the Japanese in 1942 and spent three years in a prisoner-of-war camp. Now Mr. Mulroney is telling me that his sacrifice was in vain." Then somebody said, "My brother was killed fighting Hitler and the 'distinct society' clause says that his life was sacrificed in vain." Those are voices that do not contribute a lot.

Third, public participation blends with the Charter to give legitimacy to the darker voices in Canadian politics. This is very apparent in Western Canada: people who are basically anti-French and anti-Quebec and who had been pushed off the political stage in the 1970s and the 1980s have found that, through the Charter, they can come back to the center of the political stage. They are able to wrap themselves in the Charter. So, instead or being anti-Quebec or anti-French, they are suddenly "pro" universal human rights. They now have a vehicle to carry on a crusade against Quebec and against French.

I conclude that public participation is here to stay. Whether it leaves us with a viable constitutional process is very much in doubt.

DAVID LAIDLER
Scholar-in-Residence, C.D. Howe Institute, and
Department of Economics, University of Western Ontario

Grassroots populism

I detect an easy tolerance for the notion that we can somehow clean up our act in this country by getting people to participate. I think that there is a very ugly grassroots populism developing — and I think that grassroots populism is absolute poison. Look at what it has done to the British Labour Party and to republic after republic in Latin America. We are sitting in a country that has a constitution in place and a system of government in place. And people are saying that the elected government of Canada, which has a majority in the House of Commons, does not have the moral authority to speak for Canada. I find that absolutely incredible. The elected government of Canada has the moral responsibility to speak for Canada or to resign and call an election. That is what is called for in the Canadian constitution.

JENNIFER SMITH
Department of Political Science,
Dalhousie University

Participation and education

I want to look at public participation — and at what we can do outside of Quebec between now and next June. I agree with Roger Gibbins that certain types of public hearings are not useful. They are certainly not educative. They are not democratic because there is no dialogue. People are not required to respond to what others might say. Therefore, people are not required to try to understand the other person's argument.

We must ask: What kind of process could be helpful? After all, we must begin to educate Canadians outside of Quebec about the ideas and the problems with which they will shortly have to contend. What is good about the Bélanger-Campeau Commission is its vigorous debate. It is not exactly public participation. The debate is structured: various organizations present carefully prepared submissions. But the debate itself constitutes public education. And that is constructive.

PATRICK MONAHAN
Director, Centre for Public Law
and Public Policy, York University

Constitutional overload

I agree with Kathy Brock that the lesson of Meech Lake is that there is the need for at least a public perception of broad participation in the constitutional amendment process. But there are other lessons from Meech Lake. First, the constitutional agenda has been expanded tremendously. There is now a breakdown in the traditional distinction between constitutional politics and ordinary politics. Every political issue is becoming a constitutional issue.

Second, incremental constitutional change appears to be ruled out. It seems that, in order to satisfy everybody's claims, everybody's claims must be satisfied at once. Kathy Brock's paper, in fact, was, in large part, devoted to making that point.

Third, we see that constitutional issues are highly symbolic issues. There is a struggle among different groups for symbolic ordering — and that makes these constitutional issues very difficult to resolve.

I conclude that it is utopian to suppose that we will have any kind of agreement on any kind of comprehensive constitutional proposal — given the range of issues and the difficulty of the process. This does not mean that we will not have constitutional change. It does mean that we are driven back to what our chairman [Peter Leslie, Department of Political Studies, Queen's University] identified as the "default" options. There are two "default" options: one, the status quo or something like it; two, a break in legal continuity in which Quebec declares itself to be independent.

RAYMOND BRETON
Department of Sociology,
University of Toronto

Politicians, participation, and red flags

We should ask why there is this pressure for participation? It seems to me that the rhetoric about public participation that followed Meech Lake was really a euphemism for frustration — that is, people who should have been negotiating behind the closed doors were not there. That is a form of participation that is very important: certain interests were not being articulated by anybody. In order for a negotiating process to be legitimate and to succeed, the interested parties must be present at the time of the negotiations. It is also important that the people who negotiate are able to sell whatever they negotiate to their constituencies. In the case of Meech Lake, I am not too sure that the people who were negotiating had the legitimacy to do that. One of the reasons why Meech Lake failed, for example, was that a lot of people perceived Brian Mulroney as a French Canadian. So they saw Quebec negotiating with Quebec — and therefore negotiating a good deal for Quebec. That is why the "distinct society" clause was so suspect.

We must also not forget that participation is generated by politicians — and that the state is frequently the instigator of social movements. Politicians use certain kinds of rhetoric. They constantly manipulate symbols to activate people because they want people to vote for them. So they should not be surprised if people want to participate. That is what the democratic process is all about. There seems to be an idea that there are people out there who foolishly want to express their views. But it is the politicians who, consciously or not, are constantly seeking that participation. They manipulate symbols. The "distinct society", undefined, was the best symbol to mobilize people that you could have devised. You brandish a symbol with no specific content — and then you expect people not to respond. Oh, come on! You do not activate symbols if you do not want people to participate.

As a result, the process of participation is not as simple as people think. The post-Meech Lake demand for participation was largely incited by the very process and by the politicians who participated in that process. The politicians negotiated a deal, they brandished a red flag and then they told people, "You can say what you want but we are not going to change anything." Politicians should be aware of what they are doing in process.

KATHY BROCK
Department of Political Studies,
University of Manitoba

Leadership and participation: Complementary, not contradictory

First, "letting the people in" does not mean that leaders abdicate their role and their responsibility. What it means is that they then have to justify their proposals to the Canadian public. They have to show that they have listened and thought about what they are doing. They have to show that they have not simply come up with a last-minute accommodation.

Second, "letting the people in" does not mean resolving all outstanding issues. When did the opposition solidify behind [Manitoba MLA] Elijah Harper? A lot of the aboriginal leaders and the chiefs of Manitoba were willing to go ahead with ratification until Brian Mulroney talked about "the roll of the dice." That is when, according to the chiefs and to the advisors of the chiefs that I have spoken to, they solidified their opposition. That is when they told Harper: "Block it at all costs." It was the idea that they had not been heard. So, "letting the people in" does not mean an automatic resolution of the issues. But it is a sign, at least, that people have been heard.

POLITICAL PARTIES, TIMING, AND THE IMPERATIVES OF ELECTORAL POLITICS

Making the process more democratic and more effective is not just an abstract or philosophical question. It also involves the real world of ambitious politicians and the tyranny of the electoral timetable. Political leaders and groups will struggle for control over the process in order to maximize their ability to reach their objectives.

Marcel Côté begins the discussion with the argument that politicians will seek to control the process because they are obsessed with the question: "How can I get reelected?"

MARCEL CÔTÉ

Partner, Secor

Public hearings will not dominate the process in the next two years. Instead, the process will be dominated by the political tactics controlled by politicians. They control the issue now — and they will continue to control it for the next two years. Public hearings are stage shows, more or less, set up by politicians. Manitoba Premier Gary Filmon decided to have a stage show because it served his political purpose. The same observation applies to the Bélanger-Campeau Commission and to the Spicer Commission.

Reelection: The litmus test for any politician

The litmus test for a politician is: How can I get reelected? Robert Bourassa wants to get reelected. Consider his approach to the creation of the Bélanger-Campeau Commission and his approach to the recommendations from the Liberal Party task force and his approach to the demands that Quebec will table in June 1991. Those discussions were dominated by one objective: "How can I beat Jacques Parizeau?" Use that same litmus test in Manitoba. That is why Filmon took his [anti-Meech Lake] position: it was critical for his successful reelection.

That means that politicians will not necessarily accept radical options. There will not be a Unilateral Declaration of Independence in Quebec. That would just scare people. And you do not get reelected by scaring people. We are not in Lithuania or Georgia here. We are in a land where people go to the cottage at 4 p.m. on Friday. Consider the question of a Quebec currency. Mr. Parizeau knows that he will never be Prime Minister — and Quebec will never be independent — if he says that it would be good to have a Quebec currency. The Parti Québécois would never scare people that way. Instead, they say: "We will use the Canadian dollar."

The referendum may be postponed

I would also venture that there will not be a referendum in Quebec before the next election, which will most likely not be held before 1994. I have discussed the referendum issue with high-ranking members of the Quebec Liberal Party. They would have a referendum, first, to "banalize" the sovereignty question so that the Liberals could run on something else in the next provincial election. As a second purpose, a referendum could be used to put pressure on the rest of Canada to get its act together. But if you hold a referendum, you want to win it. The Quebec Liberals do not know how they would win a referendum without risking a serious split in the party. So the referendum option will be derailed — because of very practical partisan politics.

Partisan politics play a very important role in the constitutional dynamics. There are, in fact, four key factors that will be important. Because of those factors, I believe that constitutional negotiations will be a very slow and protracted process that will lead us into the next federal election.

Why discussions are likely to be protracted

The first factor is the Quebec government's strategy. The ball is now in Bourassa's court. He will keep the ball in his court until next June when he will table Quebec's demands — which will be radical and which will surprise quite a few people outside of Quebec. The second factor is the federal Tories, who will still form the government for the next three years. After Bourassa's announcement in June, the next major move will likely come from the federal Tories. Brian Mulroney must present a major initiative — probably by early 1992 — since he is facing an election in 1993. He will aim for a major breakthrough. His constitutional initiative will be the dominant political initiative over the next three years. I expect that Justice Minister Kim Campbell, Finance Minister Michael Wilson, and Deputy Prime Minister Don Mazankowski will also be highly influential because Brian Mulroney knows that he cannot alone speak for Canada.

The third factor is Western Canada. How would Western Canada react to being the junior partner in a new Canada dominated by Ontario? How would it react to a divorce with Quebec? The dynamics in Western Canada — and the push of the Reform Party — will be critical. Finally, there is the aboriginal issue. That issue is a sleeper. It could touch raw nerves in Quebec — and it could probably change the nature of the debate if it becomes a dominant issue. It could become explosive, mainly because of the courts and because of the extensive territory involved. Those are the four major factors that will shape the dynamics of the constitutional discussion.

RICHARD FRENCH
Government and Regulatory Affairs,
Bell Canada

The process may be unmanageable

I believe that Marcel Côté is saying that there will be a series of electoral initiatives bearing on at least two of the major actors, Bourassa and Mulroney. That would mean that the process will be slightly longer and maybe a little more controlled that we might conclude. I bow to no one in terms of my respect for the political bottom line that governs the behavior of these two people. But we must remember that those two men were also the governing geniuses behind Meech Lake. I am no more confident that they will be able to manage the present forces than they were able to manage the forces in the more pacific and essentially more positive political and economic framework of Meech Lake.

Suppose they do want to orchestrate national attention on the constitutional agenda of their two respective political entities — as a function of their electoral prospects. We are learning that there is a remarkable consensus in Quebec. What will the West do, for example, at the prospect of those sorts of devolution of power? Once the West starts to move, there will likely be a domino effect. Mr. Mulroney is not in a very strong position to control those forces. There is a big unknown here. I do not think that this is a controllable process. We are going into a period of less control.

ROBERT YOUNG
Department of Political Science,
York University

Disagreements within Quebec

I want to disagree with Richard French. I think that there are going to be very significant splits in the kinds of proposals that are being made to the Bélanger-Campeau Commission. We have already seen big business briefs that are very different from the Quebec Chamber of Commerce brief. I do agree, however, that there is huge pressure on the commission to come out with a consensual position. One of the reasons for this pressure is because it is essentially bipartisan. Curiously, this creates a large incentive for unanimity.

DAVID CAMERON
Department of Political Science,
University of Toronto

I would like to examine the political process in Quebec, including the vital aspect of timing. Then I would like to look briefly at the timing in the rest of Canada.

The Bélanger-Campeau Commission

Until recently, the most widely held belief was that, given the composition of the Bélanger-Campeau Commission, it would be virtually impossible for it to produce a unanimous report. There is now speculation that a single consensus document is within the realm of possibility — given the fact that there are two able and determined chairmen engaged in what they must see as a vital national role. Whether there is one report or several, however, much of the policy formulation work will be left to the government. That is self-evident if there are competing reports. Even if there is a single report, the price of consensus will be generality. The commission cannot select and define a single model on a consensus basis. So the difficult work will be left to the politicians and finally to the government.

The Parti Québécois

The PQ's central objective is clear. Its means of achieving that objective are less clear. If Jacques Parizeau thinks that Quebecers are ready for a sovereignty decision now, he and his colleagues will push for an early referendum with a clear-cut question. I assume, however, that Mr. Parizeau will conclude that one more failed effort is necessary before the moment will be ripe for winning over Quebecers to a straight-out sovereignty platform. If so, Parti Québécois strategy might include the following:

- Allow the Bélanger-Campeau Commission to produce a report that states as forcefully as possible the case for Quebec autonomy and outlines, in general terms, the sweeping powers that Quebec requires.
- State the PQ position on sovereignty clearly — and push the Bourassa government to come forward with its own proposals.
- Try to ensure that the Bourassa government carries its middle-ground proposals to the rest of Canada *before* a provincial election or referendum.
- Quietly undermine the process of discussion so that the national government and Canadians elsewhere will reject or fumble their response to the Bourassa proposals. Unhappily, this is likely to happen — even without PQ "help".
- With Quebec opinion radicalized because of another failed effort, work to have either a referendum or the next provincial election held on the issue of outright independence. Hope that the voters will choose the party of true believers as opposed to the recent converts.

The Quebec Liberal Party

Premier Bourassa is a canny political survivor. He is, by instinct, a moderate and a gradualist and, I suspect, a friend of those who wish to preserve a functioning federal system. But I believe that he will follow public opinion if he cannot lead it. If the full-scale achievement of sovereignty becomes holy writ in Quebec, I have the impression that Bourassa will try to attain sovereignty — rather than attempt to resist public opinion.

As head of government, he will want to control the issue. He has some breathing space until the Bélanger-Campeau Commission reports.

Then the focus will shift back to him: he will be under growing political pressure to clarify his position.

First, let us consider the "when" of the process. Assuming that Quebec elites will tolerate a moderate pace (a large assumption!), Premier Bourassa will probably want to proceed later, rather than sooner. If possible, he will want to delay the start of discussions with the rest of Canada until *after* the next provincial election or until *after* a referendum. This is for two reasons:

- A referendum or an election that backed the government's position would substantially increase his bargaining power with the rest of Canada.
- A referendum or an election would substantially increase his odds of surviving if the talks fail. He cannot be optimistic about the prospects for the talks. That means that he must establish a position that will permit him and the Liberal Party to be the logical choice to preside over the next phase if the talks fail. If his action is clearly authorized by the people of Quebec, then its failure will be Quebec's failure — not simply his failure. There is some prospect that the setback will unify Quebec society, rather than divide it and threaten the survival of his government.

Elements of a Quebec proposal

Next, let us consider the "how" of the process. One can expect that the constitutional position will be fashioned principally out of two elements: the findings of the Bélanger-Campeau Commission and the work of the Quebec Liberal Party's constitutional commission. It is likely that the crucial policy formation stage will come after Bélanger-Campeau reports. Thus the Quebec Liberal Party process becomes critical because it allows the government to shape its position in light of the reactions to the commission's report. It allows the government to develop solid party backing for what is bound to be a controversial government position on Quebec's future. Thus, for the government, the best sequence would be: the Bélanger-Campeau Commission report; the Quebec Liberal Party Commission report; the formulation of the government position; an election or possibly a referendum; negotiations with the rest of Canada.

Thus, if time and circumstances permit this sequence to be followed, I would suggest that Quebec might not be in a position to talk with the rest of the country before the spring of 1992 — that is, in the fourth year of the federal election mandate.

The rest of Canada

That leads me to the rest of Canada. First, we have noted that all of Quebec society is troubled about the consequences of the failure of the Meech Lake Accord. Yet the average Anglo-Canadian does not hear about it or talk about it. Most governments in English-speaking Canada are wrestling with this problem. Certainly Ontario Premier Bob Rae is trying to figure out how he gets back into discussions — as he recognizes that he must — with the backing of an understanding citizenry that has worked its way through these issues.

That means that all of us — including the government of Quebec — have an interest in slowing down the process as much as is consistent with the avoidance of absolute frustration among the participants. We must turn discussions into a step-by-step process. As we have seen, Premier Bourassa may help us: he is not going to want to rush the fences either. These timing considerations are very important: if the process is more measured, it allows people to adjust to whatever reality unfolds.

Finally, I see very little discussion in Quebec — and little discussion outside of Quebec — of the transition costs of a possible breakup. In the experience of other countries, the transition costs are absolutely enormous. Canadians may be better able to handle those costs. If that is true, it saddens me: it would probably be because English-Canadian patriotism is so attenuated and so feeble that there would not be a candle worth squabbling over.

DOUGLAS HARTLE
Department of Economics,
University of Toronto

The politicians' time horizons

Up to the present time, the decisions have been basically made by incumbents. We must look at the problem of these incumbents' time-horizon incentives. Their time horizon, of course, is the next election. Their incentive, clearly, is to be reelected. Therefore, their agenda will be directed by those two factors. Somehow we have to get closer to [U.S. philosopher John] Rawls' "veil of ignorance". That is, we have to get closer to a situation where people are producing a constitution that is not for themselves but for two generations hence. The idea of a constitutional congress, however, worries me because it is a bit like Meech Lake on a grand scale: somehow, within a limited period of time, all of these questions have to be resolved. So how do we deal with this problem? Changes will have to be made over time but we cannot rely on the present incumbents of political offices.

PROBLEMS WITH THE 1982 AMENDING FORMULA

J. Peter Meekison, one of the architects of the current amending formula, explores its underlying rationale and the issues that any amending formula must confront.

J. PETER MEEKISON
Vice-President, Academic,
University of Alberta

My basic premise is that the 1982 amending formula is not responsible for the failure of the Meech Lake Accord. As well, I argue that, in all probability, the amending formula will not be used to get us out of our current constitutional problems.

Purposes of an amending formula

Let me begin by asking a simple question: Why have an amending formula? The obvious purpose of an amending formula is to provide a mechanism for changing the constitution since most people recognize that it is essential to have some method to modify or improve it. The past cannot bind the future. In federal systems, there is no "set" amending formula. Most scholars, however, would expect that the formula would involve both orders of government. Australia also involves public participation through a referendum. Most scholars would expect that amendments to the constitution would be more difficult to enact than ordinary legislation. One usually finds some kind of extraordinary majority as a requirement.

In Canada's case, my first observation is that the amending formula came well after Confederation — and after a large number of amendments had actually been enacted. Governments had experience with the constitution. Thus, in many respects, the amending formula became seen as a defensive mechanism: that is, how to make change difficult or how to protect the status quo — in such provisions as language and natural resources — as opposed to how to facilitate change. The Canadian experience also meant that, in its design, the amending formula became far more detailed than one finds in other constitutions. As a result, the constitution was "compartmentalized" with a different threshold of consent for each part.

My second observation is that the amending formula was developed as part of a comprehensive constitutional review. In other words, it was not the only issue under consideration. In the final analysis, however, the 1982 constitutional package included only a few principal changes: the Charter, the amending formula, section 92A on natural resources, and equalization. The remainder was, and remains, unfinished business. We must ask whether an amending formula that was conceived in the context of a global review is a satisfactory instrument for a comprehensive series of amendments as opposed to a single amendment.

The structure of the 1982 formula

What is the basic design of the formula? The general formula is contained in section 38 of the *Constitution Act, 1982*. Under this formula, amendments can be made to the constitution by Parliament and two-thirds of the provinces representing 50 percent of the population. But, and this is key to understanding the formula, if the amendment is one that "derogates from the legislative powers, the proprietary rights or any other rights or privileges of the legislature or government of a province," the province can "opt out" of it. In other words, the amendment will not take effect in that province. Implicit in that design is this premise: English Canada, or most of it, may desire a different vision of Canada, particularly with respect to the division of powers; this vision will run counter to the vision of Quebec.

When the 1982 amending formula was developed, the principal criticism was directed at this concept of "opting out". Critics charged that it would lead to "checkerboard federalism" or chaos. It is true that the formula's design permits individual provincial differences. But I argue that the concept of individual provincial differences is not radical in a polity based on the federal principle. Today we would use the term "asymmetry" to describe the possibility of such provincial differences, whether they occur by design at the beginning or through amendments.

The Quebec veto

Prior to 1982 and today, there has been another dilemma: whether Quebec should have a veto on any or all amendments. The notion of special status in this area has always been difficult to sell to other provinces, particularly those provinces in Western Canada. Alberta, for one, was not prepared to see first-class and second-class provinces. To Alberta, all provinces are to be seen, and treated, as equals under the constitution. Our current amending formula accomplishes that by giving an "equal say" to all provinces on amendments — that is, no single province has a veto. Through the "opting out" mechanism, however, each province's position is protected — that is, the rest of the country cannot gang up on one or two provinces. Equally, no province can hold up changes that the majority of provinces favor.

Only a few matters are excluded from the general amending formula. These matters are subject to a unanimity rule. The list is short, restricted to certain amendments where unanimity is essential and where the concept of "opting out" makes no sense or is nonapplicable. There are also certain amendments where one province's interest is so great that a veto is seen as necessary, leading to a veto for all.

The general formula applies to most constitutional provisions including: the Charter; the division of powers; most institutions, such as the Senate and the Supreme Court (aside from its composition); and equalization. If the Meech Lake Accord had been approved, most amendments, such as those to the Charter and to the division of powers, would still be subject to the general formula. The accord would have expanded the unanimity list to include changes to the Senate and the Supreme Court. (It also "constitutionalized" the Supreme Court.)

Unanimity

Unanimity is difficult to achieve but not impossible. But it is perhaps more significant that many people perceived that, after Meech Lake, most amendments to the constitution would be subject to individual provincial vetoes. This is not the case. Consider the provisions of the Meech Lake Accord, for example, which could have been approved under the general seven-provinces/50-percent-population formula: the "distinct society" clause, the limitations on federal spending power, most of the provisions on the Supreme Court, the immigration provisions, and the provisions for First Ministers' conferences.

What about the rest of the amending formula? What scrutiny did it receive when it was developed? A detailed review was given to the unanimity provision of section 41. A detailed review was also given to the list of items that are included in section 42 [items that are subject to the general amending formula]. We also gave a very detailed review to the principle of financial compensation.

Time limits

What about section 39 — that is, the section that sets time limits? There are two time limits in the amending formula. One, a one-year limit, which means that there can be no surprises, or things being rammed through — unless everybody is in agreement. Two, a three-year limit, which was thought to be a reasonable threshold within which to get a consensus. Time limits were included as a means of providing some framework within which amendments could be reviewed — and could either succeed or fail. With the failure of the Meech Lake Accord, these time limits have become an issue because they allowed opposition to mobilize. In retrospect, one might well conclude that the "time limits" clause was the major stumbling block. One might certainly ask: If the time limits had been extended, would the necessary agreement have been forthcoming?

To understand the importance of time limits, one must go back to the question: Why have an amending formula? The purpose of the amending formula is to provide for future constitutional change, presumably incremental change over an indeterminate period. The current amending formula was never intended to be a vehicle for wholesale change or a vehicle to ratify a new constitution.

There are basically two ways that the formula can be applied:

- *Example One*: A few years ago, the province of British Columbia wanted to include property rights in section 7 of the Charter. It introduced and passed an amendment in the B.C. legislature. British Columbia now had three years to convince the other ten jurisdictions. It was unsuccessful. Of course, British Columbia could have reintroduced that amendment, starting the cycle all over again.
- *Example Two*: After a few years of intergovernmental discussion and compromise, an agreement was struck among the 11 governments. The Meech Lake Accord was drafted and submitted for legislative approval. It was reasonable to assume that the amendment was likely to pass because negotiations had been completed, compromises had been made and the agreement of all 11 governments had been secured.

Ratification

Under the provisions of the amending formula, ratification is necessary to secure an amendment. This feature does not preclude public hearings. Indeed, they are required in Manitoba. There is, however, a dilemma or potential Catch 22: the hearings could result in recommendations for changes in the agreement. That leaves a government in a difficult position: should it reopen negotiations with its fellow governments to change the agreement? There is nothing in the formula itself that prohibits the proposal of changes or the introduction of a companion or amended resolution. Until one of the legislatures adopts the resolution, the constitutional clock does not start ticking. Legislatures can also change their minds by withdrawing a resolution of assent at any time prior to proclamation. One government cannot bind its successors.

Once the amendment clock has been started, however, there are no "time outs". Hindsight would suggest that if a meeting among the governments is thought necessary, it ought to be held sooner, rather than later. It should certainly not be held at the end of the three-year deadline. One does tend to learn from experience: the First Ministers will probably be encouraged to secure approval "as soon as possible" — a commitment found in the political accord that accompanied the Meech Lake agreement.

The amending formula is not the only culprit

Thus, in my view, if the agreement falls apart, the amending formula is not at fault. Blame, if that is the correct word, should be assigned to the participants who have either changed their minds or been changed themselves through the electoral process.

We must remember that our experience with the new amending formula is very limited. To date, the one and only successful amendment emerged from the 1983 conference on aboriginal rights. One successful amendment and one failed amendment is insufficient evidence on which to judge the effectiveness of the formula. We must also remember that some of the Meech Lake Accord fell under the general amending formula — and some was subject to the unanimity rule. In retrospect, perhaps we could have proclaimed the parts of the accord that fell under the two-thirds/50-percent threshold. There was no deadline for the balance since it fell under the unanimity provision.

In future, governments must consider both timing and process. It appears necessary, for example, to secure an agreement on the ratification process. That agreement will need to include both an understanding on a public process and a commitment to attempt to secure adoption of the amendment within a certain time.

Beyond the 1982 formula: A referendum

What about the future? The preceding analysis makes it clear that the amending formula may not be the appropriate instrument in the ratification of whatever new constitutional understanding emerges. It was not designed to deal with our current problems. The formula may not be appropriate, for example, if some form of sovereignty-association is being considered.

I recommend that we give consideration to a separate ratification process. This would include some kind of referendum that would be held simultaneously in Quebec and in the rest of Canada. Obviously, we would require prior agreement on what threshold constitutes acceptance in English Canada. The two-thirds/50-percent rule would probably mean that it would require approval from Ontario. That rule would also mean, however, that the territories would have no "say" — which I find problematical. As an alternative, we could insist that the question be approved by referendum on a regional basis. We could also apply the Australian model: the amendment needs a majority of people in a majority of regions.

In other words, whatever new constitutional understanding emerges, it cannot necessarily be viewed as a simple amendment that would use the current amending formula — although the amending formula is certainly one (and, at present, the only) vehicle for ratification. In all probability, we will need to look at a ratification process which is a one-time event. If we assume that we are looking at fundamental changes, we must have public involvement in order to give legitimacy to the new constitution in all areas of the country.

PATRICK MONAHAN
Director, Centre for Public Law
and Public Policy, York University

The 1982 formula is not suited to comprehensive change

Peter Meekison suggested that the 1982 formula was not one of the causes of the failure of Meech Lake. But it seems to me that he really proven the opposite point because he suggested that the 1982 formula was not equipped to deal with the type of amendment that we had in Meech Lake. That is, the 1982 formula was not equipped to deal with a series of tradeoffs — a comprehensive type of amendment. It was only able to deal with a fairly simple amendment such as property rights. The difference between those two amendments, of course, is that you can say "yes" or "no" to an amendment on property rights. A legislative ratification process works relatively well in that situation.

When you have a comprehensive series of tradeoffs, the legislative ratification process does not work well because the deliberations of one legislature cannot be "traded off" against the deliberations of another legislatures. As a result, when you have a tradeoff situation, it is difficult to pass an amendment. The 1982 formula does, in fact, have something to do with the failure of Meech Lake.

JOHN BOSSONS
Department of Economics,
University of Toronto

We have to recognize that the 1982 constitution basically gives us a tool that we probably cannot use because of the limitations stemming from the requirement for complete approval. If we are talking about a situation that is as serious and as dramatic as the potential independence of Quebec and if we want to respond to that situation, it is very clear that a process which requires every province's approval is simply unworkable. It is probably illegitimate, too. I would argue that the notion that a province of 100,000 people has the right to veto decisions for the country as a whole is illegitimate — unless all other entities of 100,000 people have the same right. The 1982 amending formula is simply a nonstarter when we get into such a serious situation as the response of the rest of Canada to Quebec's impending divorce action.

DON STEVENSON
Associate to the Principal,
Glendon College

The straitjacket of unanimity

If I were still in government now, I would be pressing for a much more flexible amending formula. Unanimity is for the birds, on anything, because it always gives the last person "in" the power of blackmail. That was one of the main causes of the failure of Meech Lake. Instead of the unanimity requirement, I would have probably given a veto to Quebec on national institutions. That way, we would need seven provinces with 50 percent of the population including Quebec to change national institutions — rather than unanimity.

ROBERT PRICHARD
President,
University of Toronto

Give the 1982 formula another chance

Scholars here have sounded the death knell for the 1982 amending formula. I want to caution that we may not have tested its full possibilities. We tried it once — and we failed. But there are potentially two things different when we try next time. First, we have learned quite a lot about easy ways to make it *not* work. Those include delay and change of government. Presumably, most political actors would conduct themselves differently next time, knowing what went wrong last time. If you look back at the literature on how the 1982 formula was expected to work, that literature did not reveal much about some of the pitfalls. We now have a real-life example of what went wrong. We are wiser now — and we have the potential to operate more effectively.

Second, the cost of failure is going to be a lot higher next time. One of the difficulties with the Meech Lake round was that a lot of people genuinely believed that there was a very low cost to failure. The sense of the cost of failure is going to be quite different in the next round.

STEFAN DUPRÉ
Department of Political Science,
University of Toronto

In defense of parliamentary democracy

Legislative ratification, as required by the 1982 formula, was an important step toward making the ratification process fully congruent with parliamentary democracy. Some people posit "plebiscite democracy" as an ideal. When did parliamentary democracy become such a defective alternative to plebiscites? Is the brutally majoritarian instrument of a referendum more democratic than a parliamentary democracy in which Manitoba-style, all-party agreement permits a single parliamentarian to block ratification?

THOMAS J. COURCHENE
School of Policy Studies,
Queen's University

Section 94: A novel way out

There is an intriguing amending formula for English Canada in section 94 of the constitution. That section makes provision for the uniformity of all or any laws relative to property and civil rights in Ontario, Nova Scotia, and New Brunswick. But any act of Parliament making provision for such uniformity shall not have any effect in a province until it is adopted in the legislature of that province. [Former constitutional law professor] Frank Scott argued that the role of this provision was to allow the original non-Quebec provinces (and future non-Quebec provinces) to "centralize" if and when conditions become more favorable.

This constitutes an alternate approach to the issue of symmetry. All provinces could receive equal powers — which is symmetry in principle. Then the non-Quebec provinces could "pass upward" some of these powers — to Ottawa or to an "everybody but Quebec" superlevel. This is more than a gimmick. Suppose Quebec demands ten new powers. We could give them to everybody. Then the other nine provinces could say, "We do not really want them." They could transfer them back. I asked Newfoundland Premier Clyde Wells if section 94 would satisfy his essential need for equality. He said, "Yes."

WHO SPEAKS FOR THE REST OF CANADA?

Many Canadians who see Quebec moving rapidly to its own constitutional agenda are wondering if Canada outside Quebec, or "the rest of Canada", should develop mechanisms to think through its own preferences. This view is open to two objections. First, does such a political entity exist or could it be created? Second, does this language create a self-fulfilling prophecy by assuming the separation of Quebec and the rest of Canada from the outset?

REG WHITAKER
Department of Political Science,
York University

There are two parts to this question. First, who speaks for the rest of Canada? Second, what is, or what constitutes, "the rest of Canada"?

Quebec's voice is relatively unanimous

Let me begin indirectly. What is new about the present constitutional conjuncture is that, for the first time, Quebec is speaking with relative unanimity. If the Bélanger-Campeau Commission can produce a reasonably coherent report — that is, one which can gain the support of both the Liberals and the Parti Québécois — then that report will likely produce a consensus "shopping list" of powers. These powers must be exclusive to Quebec — and they will be demanded on a "take it or leave it" basis from the rest of Canada. "Take it" — that is, establish an extreme asymmetrical federalism or a five-region sovereignty-association system. "Leave it" — that is, face independence for Quebec from the rest of Canada. This "take it or leave it" proposition may be backed by a well-managed referendum indicating that Quebec will indeed quit the federation if its demands are not met. Bélanger-Campeau will thus serve as the platform of the Bloc Québécois. If that party gains a plurality or even a majority of the Quebec seats in the House of Commons after the next election, then Quebec will have an autonomous position with wide freedom of action at both levels.

What has changed since 1980?

In contrast, look back to 1980 when Quebec was divided between sovereigntists and federalists, with the latter holding almost complete sway at the federal level. Sovereignty-association was then a partisan project of the Parti Québécois. It was opposed by significant and influential sectors within Quebec society — and those sectors formed a crucial tactical alliance with the federal Liberals. Today, sovereignty increasingly appears to be the logical or natural outgrowth of an emerging consensus within Quebec society. The success of the Bloc Québécois and the eclipse of the Chrétien Liberals within Quebec are symbolic of this historic reversal.

The eclipse of "Canada"

This background is important in order to grasp the enormity of the problem in the question, "Who speaks for the rest of Canada?" In 1980, the players included one particular Quebec — that of the Parti Québécois and the sovereigntists. There was an English Canada — divided and indistinct as it might be. But there was also another level — simply "Canada". It was, as Pierre Trudeau liked to say, more than the sum of its parts. It represented, at the national level, or at least at the level of the federal government, a concept that was neither exclusively English Canadian nor French Canadian, neither anglophone nor francophone, neither Quebec nor the "rest of Canada". Ten years later, this Canada has pretty much vanished.

What happened? There was: the Trudeau constitution of 1981 without Quebec's signature; the divisive impact of the Charter of Rights; the "free trade election" of 1988, which enforced the Free Trade Agreement on the strength of Quebec votes; the ugly communal controversy over Bill 178 and the "notwithstanding" clause; and, finally, the Meech Lake fiasco. Each episode did its part to snap the bonds that drew the two nations together at the national level.

In the wake of Meech Lake, the constitutional problem facing the rest of Canada is a kind of radical asymmetry: Quebec will be setting the agenda unilaterally; on the other side, there is no obvious mechanism for articulating a counterposition or for constituting a viable negotiating unit.

Let us consider the limitations of each pretender.

Ottawa cannot do it

In 1984, the Mulroney government had a commanding position with majorities in every region and strong support in Quebec. Today, the government is lower in public esteem than any elected government that has held power in the postwar Western world. Worse, for our purposes, it is particularly discredited outside Quebec, even within its "heartland" in the West or among its traditional Tory supporters in Atlantic Canada. There is no way that Brian Mulroney can speak for the rest of Canada. If the Conservatives attempt to shore up their remaining base by making bilaterally negotiated concessions to Quebec, they will only drive the rest of Canada into greater spasms of regional protest.

Can anyone else at the national level speak for the rest of Canada? The Liberals are as discredited in Quebec as the Tories are in the rest of Canada. They are committed to Trudeau-style federalism with a phantom Quebec wing. The Reform Party speaks for regional Western protest — albeit with a clear national focus. The New Democratic Party might make the best run at presenting a national presence. But it lacks Quebec. Given the presence of the Bloc Québécois, none of these parties is likely to win more than a plurality. Strange coalitions may be the order of the day. The likely result will be the lack of any coherent federal face.

The provinces cannot do it

After the fiasco of the Meech Lake process, provincial governments have strong reason to wish to be seen consulting their constituents before embarking upon further constitutional deals. Alberta, Manitoba, Ontario, and New Brunswick already have constitutional commissions on stream. Those commissions will speak to provincial interests — and report on provincial perspectives. They will undoubtedly be laced with federalist and even nationalist perspectives — but they will be filtered through provincial and regional perspectives. That is as it should be. But where is the mechanism for aggregating and articulating these separate perspectives?

Spicer cannot do it

Then we turn to the Spicer Commission. This looks like an endless CBC *Cross Country Checkup*. The contrast to the Bélanger-Campeau Commission is quite poignant. Bélanger-Campeau stands ready to articulate an inchoate but widely held position that already exists in Quebec society. The commission simply has to shape it and to gather bipartisan support. In contrast, Spicer can presumably articulate only the existent confusion and division within the rest of Canada. Worst of all, Spicer is already suffering from a structural incoherence with regard to Quebec. Quebec is represented on Spicer (the rest of Canada, of course, is not represented on Bélanger-Campeau). But it is not clear if there is any mandate to articulate any Quebec view — other than the view that the Bélanger-Campeau Commission produces. On the other hand, the Spicer Commission is not structured to encourage a decisively English-Canadian, or rest-of-Canada, position that would be distinct from the position of Quebec.

Restructuring the rest of Canada

I think it will become apparent, probably sooner rather than later, that the only viable constitutional option to emerge will be sovereignty for Quebec. We will then face the problem of who can negotiate economic association with the government of Quebec. First, will Canada (no longer the "rest of Canada" but, at last, simply "Canada") break up or will it be reconstituted to form a viable bargaining unit? This unit cannot be simply "Canada-as-now-minus-Quebec". The West will not accept the dominance of Ontario, which would account for half the population of Canada-as-now-minus-Quebec. Atlantic Canada would not accept becoming an East Pakistan. Thus a radical restructuring of the institutions of the central government will be required to produce a Canadian government that can speak for its regions and that can bargain effectively and with authority with a politically sovereign Quebec.

The "rest of Canada" is a concept that is negatively defined by an absence: that of Quebec. The paradox is that it only becomes a positive concept at the moment that Quebec formally leaves Confederation — that is, at the moment when the theoretical becomes concrete. But this paradoxical conjuncture surely constitutes an enormous disservice to Canadians, leaving them incoherent and voiceless in the process until the die is cast.

The one way out of this conundrum is for Canadians to begin to set their own constitutional agenda — not in opposition to Quebec but without regard to Quebec — just as Quebec is doing.

This leads to the last critical element in the "Who speaks for?" question. There is a profound legitimacy crisis in the institutions and processes of government. That crisis exists, to some degree, everywhere in the Western world. But it is, in many ways, worse in Canada. It has become deeply identified with the constitutional malaise, with regional discontent and with the lack of a national vision. The populist reaction to Meech Lake was simply one symptom of the need for a more democratic process of representation. That process requires radical restructuring of institutions.

Quebec is part of the problem: its constitutional agenda blocks the Canadian agenda. Moreover, for 30 years, the discourse of Quebec-Canada relations has been cast as a persistent and sometimes escalating set of demands for more powers to the Quebec state. This has meant that the Quebec question has concentrated political attention on intergovernmental relations and elite accommodation. This, in turn, has the effect of pushing aside the issues of "democratization" and greater public participation. Those issues become, at best, irrelevant to the main event or, at worst, an impediment to the capacity of the elite to cut deals. The fiasco of the Meech Lake process is the latest and worse result of this tendency.

From "rest of Canada" to "Canada"

But if Quebec is part of the problem, it is not part of the solution. In order to speak for itself, the rest of Canada must define itself more positively. It must become not the "rest of Canada" but simply "Canada". This means that, as a minimum program for their own survival as a community, Canadians outside of Quebec must begin to plan as if Quebec were already gone. They must begin to create the mechanisms for articulating their own voice. The political parties will have to abandon elite accommodation. (That abandonment is already taking place in Quebec.) The party that is able to write off Quebec, not tactically but strategically, not with vindictiveness but in a positive spirit of self-esteem, will perhaps find a genuine response and real electoral returns. That party could begin to speak on behalf of (rest of) Canada in a way that no party or government can now presume to speak.

A different agenda

There is a Canadian constitutional agenda that must be set — and it exists on a different track to that of Quebec. Globalization and the communications revolution have posed serious challenges to our understanding of what the state can or ought to do, to the distribution of powers between levels of government, and to the relationship between state and citizen. Quebec, with its single-minded pursuit of more powers, is an impediment to any coherent restructuring of state powers on a more rational basis.

Similarly, the Quebec-centered agenda is at cross-purposes with the crisis that the rest of Canada perceives in the legitimacy of institutions. The West, through the medium of the Reform Party, for example, has a process-oriented program that focuses directly on expanding Western and popular participation in the national institutions of government. The party seems to be suggesting that it wants "in", not "out". This is also what pollsters tell us about the alienated and disaffected voters across the rest of Canada. True, native peoples are now demanding sovereignty. But complete separation would be a practical impossibility, given the economic and geographical circumstances. Rather, we should see demands for native sovereignty as a plea for a new kind of relationship with Canada.

In contrast, there is overwhelming reason to believe that Quebec simply wants "out" of the political arrangement of Confederation.

If this is so, the implications are profound. It is impossible to reconcile, on the same constitutional agenda, the aspirations of those who want "out" with those who want "in", including those who want "in" on a radically different basis.

If Canada, not the rest of Canada, is to be constituted, this can perhaps only be done by a divorce or, more precisely, in planning for a divorce.

WILLIAM WATSON

Visiting Associate,
Americas Society / Canadian Affairs

Who signs the divorce papers?

There are two questions here: Who signs the divorce papers for the rest of Canada? Who speaks for the rest of Canada? I would say that there is a political marketplace out there. "Who speaks for the rest of Canada" is "who says what the rest of Canada wants said." I believe that the rest of Canada will say: "This is a terrible tragedy. If you want to go off on your own, that is fine. We are not interested in superstructures. Please stay with us — but we do not want any real change within the country if you stay." Whatever politician makes that statement will be the next Prime Minister. That is the message — "Put up or shut up" — that will sell in the rest of Canada.

JOHN BOSSONS
Department of Economics,
University of Toronto

I would suggest that the sooner we can get the rest of Canada to confront the impending divorce, the better. What concerns me is the notion that we could try to postpone or ignore this issue for the next couple of years. We should recognize that we are dealing with a divorce proceeding — and that it is simply a question of deciding what sort of amicable agreement we can reach. I really fear for the country if the Spicer Commission and other instruments do not succeed in making English Canada confront this reality.

ALAN CAIRNS
Department of Political Science,
University of British Columbia

The federalism game or the sovereignty game?

We are in a very difficult position: we are simultaneously playing two games and we do not know which game is going to end up being the dominant game. This discussion appears to anticipate that the dominant game is going to be the sovereignty game. But that is not yet clear. For the next year, at least, Session Four of this conference — "Federalist Alternatives" — and Session Five — "Breaking The Federal Mould" — are not going to occur sequentially. They coexist as games that are being juggled. The difficulty is: Who are the right participants depends on which game is being played.

It might be useful to look back at other situations where more than one game was played. In pre-referendum Quebec, in a sense, there were two games being played at once. The Parti Québécois was playing the "sovereignty-association" game. The opposition Liberal Party was playing the "save federalism" game. That might have worked after the failure of the referendum. But the party that was defeated in the referendum, the Parti Québécois, won the next election. That explains the weak bargaining position that the Parti Québécois had in the next round of constitutional negotiations — which ended with what Quebec viewed as a disastrous outcome.

Nevertheless, it is now rather easier for Quebec to play both games at once than it is for the rest of us. When Quebec plays both games at once, it is the same actor — the government of Quebec and the people of Quebec — deciding whether to play the "breakup of Canada" game or the "within federalism" game. In contrast, the bargaining actors are not the same in each game in English Canada. If English Canada is participating as part of a Canada that is going to survive whatever constitutional rearrangement takes place, then the existing structure of government has more feasibility as the set of bargaining actors. English Canada's problem is reduced if we are playing a "within federalism" game. In contrast, if English Canada is getting ready to play a role as an entity that will be formed down the road, the structure of power in the existing system is quite inappropriate. In that scenario, English Canada does not exist. It has no coherent voice. It has nobody to articulate its potential concerns.

At the moment, we do not know if English Canada is going to continue to be part of an ongoing Canada or if it is getting ready for detachment from the pan-Canadian political system. Quebec will probably decide which game becomes dominant. We need to "muddle through" — simultaneously playing both games — in a very sophisticated fashion while we ready ourselves for Quebec's decision. That is extremely difficult. If we are playing the "breakup of Canada" game, we have to prepare for a game outside the ranks of government. Provincial governments cannot play that game. The federal government will not give up until the writing is inexorably on the wall.

In summary, until the dust clears, we have to play very sophisticated dual games in anticipation of an unknown future. Either game is likely because the actors who are making the decision are not under our control.

PETER SADLIER-BROWN
Assistant Deputy Minister,
Ontario Ministry of Intergovernmental Affairs

"The rest of Canada" is little more than a mirage

We are talking about the rest of Canada in the way that we might have talked about Canada a few years ago. There are very fundamental questions about legitimacy and participation in how we define the rest of Canada. It is very easy to assume that the rest of Canada can cooperate with itself. But the rest of Canada is in competition with itself along with the rest of the world. We must not set up processes where the premise is cooperation when the people are in competition. In the present circumstances, the whole idea of creating a meaningful rest of Canada is no more "on" than the notion of creating a meaningful Canada.

STEFAN DUPRÉ
Department of Political Science,
University of Toronto

I am deeply disturbed at the position that an entity called "the rest of Canada" must think through its future within the federation — and how it will conduct its relations with Quebec. This position ignores all the intervening steps (or mis-steps) — and leaps to the scenario where the Quebec National Assembly, likely with the blessing of a referendum, has passed a Unilateral Declaration of Independence.

Worse, the term "rest of Canada" is a dangerous, self-fulfilling prophecy

It is possible that Canada is not far removed in time from this dramatic scenario. But I deplore an approach to the issues that is tantamount to turning this scenario into a self-fulfilling prophecy. The reality is that Canadian citizenship extends from sea to sea. The "rest of Canada" position ignores the moral equivalent of this legal reality: a Canadian is his or her fellow citizen's keeper, irrespective of province of residence. In a concern for Canadians outside Quebec, the "rest of Canada" position pays no attention to Canadians *inside* Quebec.

Is this because we are entitled to assume that these citizens are well represented within the two ongoing exercises that are currently canvassing constitutional opinion in Quebec? It strikes me that no such assumption is warranted. Although the Quebec Liberal Party exercise involves grassroots riding associations, its base remains purely partisan. As for the Bélanger-Campeau Commission, whatever voice that it gives to female, ethnic, or minority-language elements is purely incidental to the status of its members as elected legislators, private sector executives, or union leaders. Viewed in this light, Bélanger-Campeau is a tripartite constitutional exercise. Even if we concede that tripartitism is more advanced in Quebec than elsewhere in Canada, are we entitled to assume that Big Government, Big Business, and Big Labor can adequately and fairly discern constitutional options? There are, for example, no aboriginal representatives on the Bélanger-Campeau Commission. We should not assume that the so-called "Charter groups" are out of existence in Quebec.

I take those representational inadequacies of Bélanger-Campeau as my starting point. To the extent that "rest of Canada" consists of provinces other than Quebec, I would exhort provincial governments to be mindful of the Bélanger-Campeau Commission's representational deficiencies when they mount their own constitutional exercises.

An all-Canadian approach

I would then concentrate my attention on finding an all-Canadian answer to the question: "Who will speak for Canada?" Instead of that approach, however, I see the question: "Who will speak for the rest of Canada?" Furthermore, Richard Simeon [Department of Political Science, University of Toronto] characterizes this question as "the old chestnut." Surely, it is a new and raw chestnut — and it likely to produce the indigestion of self-fulfilling prophecy. The old chestnut that I recall came from Pierre Trudeau's question: "Who will speak for Canada?" Why do we assume that his old chestnut is *passé* — especially when he had a response?

Trudeau's hope lay in generating a transcending, unifying sense of citizenship by entrenching the status of Canadians as constitutional rights-bearers. The Meech Lake debate yields telling evidence that this sense of citizenship is beginning to transcend the so-called rest of

Canada. But must we abandon Trudeau's position because of evidence that this sense of citizenship seemingly stopped at Quebec's borders? Suppose it takes just a little more time to transcend Quebec's borders. Suppose that a transcending sense of citizenship blossoms in response to a tripartite Bélanger-Campeau report that is merely an exercise in tribalism?

I submit that these suppositions deserve pride of place in thinking about constitutional issues. They summon us to think about a federal instrument that would give representation to all Charter Canadians, including gender, aboriginal, ethnic, racial, and minority language groups resident in Quebec. I agree with Richard Simeon that First Ministers' conferences have been discredited as a means of hatching constitutional texts. My thoughts lead logically to the advisability of structuring a national convention that would be broadly representative of all constitutional issues. Let the findings of Bélanger-Campeau and the Quebec Liberal Party and the constitutional exercises of other provinces be fed into that convention. At that point, the federal government should be given one more chance to speak for Canada. It is true that the opinion polls show widespread dissatisfaction with Ottawa. But is the capacity of the federal government to speak for Canada to be a function of every swing in short-term public attitudes?

ERIC KIERANS
Former federal and
Quebec cabinet minister

An alternative: A regional approach

The worst thing that you can do to a Quebecer is to tell him that the rest of Canada is lined up against him — or to make it appear that the rest of Canada is lined up against him. Robert Bourassa is an economist. He certainly feels that there have got to be economic links across the country. And I believe that economic harmonization across the country is an absolute necessity. This can only be at the federal level.

But there is no "all-Canada" response to what Quebec wants to do. In the first place, to the extent that the rest of Canada opposes what Quebec wants, everyone has his own particular criticism. If you want to preserve Canada, let each of the regions do its own thing first. You have to think in terms of processional steps.

Let the various regions, not the rest of Canada, make up their own minds about the extent that they want to accommodate themselves to economic harmonization. I think that Ontario would be one of the first to talk reasonably to Quebec. It looks as though Preston Manning would also. The worst thing that you can do is tell the Maritimes that they have got to join: let them find out, sooner or later, that it is in their own best interests.

I see two weaknesses here. First, when free trade was superimposed on this nation, we changed from an east-west nation into a north-south nation. So I do not see where the kick-start toward economic harmonization can come from. That is a pressing need — and an academic problem. The second problem is the federal government itself: 40 ministers are digging into everything that they can lay their hands on. Most of these issues are really the concern of municipal and provincial governments. Instead, those governments are being hammered by federal directives and federal interference. I cannot see Ottawa ever reducing one man-year of anything — and that is going to be a real bottleneck.

JOHN CRISPO
Faculty of Management,
University of Toronto

More north-south trade does not increase east-west conflict

I am sick of this red herring about the effect of the Free Trade Agreement on Canada. I do not deny that there was some shift north-south, as opposed to east-west. And there will be more shift north-south. But if we had continued in our attempt to force the artificial east-west flow of everything in Canada, this country would have been subject to even more divisions. The rest of Canada was fed up with Ontario's domination. The National Energy Program was perhaps the last straw. It is not without significance that Ontario was the major province to oppose free trade. Ontario saw that free trade would weaken its hold on the rest of Canada. My question is: Did the Free Trade Agreement weaken Canada more than the continuance of Ontario's domination would have weakened it?

There is no "rest of Canada" without Quebec

That leads me to a second question: What is the rest of Canada without Quebec? I do not think that there is a rest of Canada without Quebec. If Ontario dominates Canada with Quebec, what does it do without Quebec? The Maritimes would probably lose equalization and regional development. How would those provinces feel about the rest of Canada? Alberta and British Columbia are more and more of the view that they are the only provinces that could gain, not lose, if they left Canada. So you would have a have-not Maritimes that would be even more have-not; you would have an Ontario that would be even stronger without Quebec if the rest of Canada would put up with it; and you would have the prosperous half of the West saying, "What the hell do we need this for?" We had better start recognizing that there is no Canada without Quebec. We should be realistic about what happens if we blow this thing.

ANTHONY SCOTT
Department of Economics,
University of Ottawa

Eric Kierans has said that we should leave it to the regions to make up their own minds about things before deciding on some sort of asymmetry or complete decentralization. My opinion is that we owe it to Quebec to

A non-constitutional constituent assembly

be willing to talk over the divorce before it takes place. That means that, early on, simple regional discussions are not enough. There has to be something more. We owe it to Quebec and to ourselves to state, tentatively, our preferences — before Quebec presents its preferences in some final form. Finally, we must not forget that many people have demanded public participation at early stages.

Can these things be reconciled? We have heard that they cannot be reconciled in the hands of the federal government: Ottawa cannot speak for the rest of Canada or for the regions or for whatever we are talking about here. The constitution does not provide any means by which we can do this — because the constitution does not allow us to have constitutional discussions without Quebec.

We could have a sort of nonconstitutional constituent assembly that could have delegates from the various provinces or regions in quite large numbers. It would be given the task of drawing up a draft statement of the rest of Canada's preferences and aims. Doug Hartle [Department of Economics, University of Toronto] said that whoever represents us has to have a long time horizon. Other people have said, correctly, that we must have political people. It seems to me that the provinces should send delegates who are political, perhaps members of provincial legislatures. Those delegates should be given a time horizon that is as long or perhaps longer than the time horizon of the governments from which they are drawn. The participants should be held responsible, in some way, for what they say and what they do at this assembly. One would hope that such a body would meet several times, allowing things to simmer between meetings. One would also hope that, in some way, the participants would think that they were standing for their regions or governments but, on the other hand, they would not be instructed.

What about closed doors versus open doors? One of the things about an assembly is that there are closed doors. There can be combinations of groups of people meeting behind closed doors to work out positions.

DON STEVENSON
Associate to the Principal,
Glendon College

The time for incremental change is past

I must say, first, that I believe that I am in a "cart before the horse" exercise. I think that we should only get into process — or *how* we get there — after we decide *where* we are heading.

If Meech Lake had passed, I would have been very happy to have seen multilateral and incremental change take place under the 1982 constitution. First Ministers' conferences would have been mandated. Even if there were no burning constitutional issues, we could have tacked a five-minute constitutional conference onto an annual First Ministers' conference on the economy. Then we could have had a one-by-one, incremental approach to constitutional change. That approach has taken wind. All bets are off with the failure of Meech.

We are past the stage of incremental negotiations. We have got to look at more radical change. It is too soon to say whether that change should be through bilateral or multilateral negotiations. Whatever works. It is now much more important to develop a consensus on where we are going before we get into the specifics of how we make changes. The last thing that we need now is a lawyer-driven exercise based on incremental changes in the context of the existing amending formula. That would just lead to great frustration — and it will certainly not deal with the Quebec agenda.

A citizen-based approach

I am not very confident of the results of the Spicer Commission. But it is the type of hand-holding, nongovernmental exercise that is needed on a cross-country basis. There has to be a sense that people can offer some input when the future of the country is at stake. As well, it would make sense for provincial governments or, preferably, from my view, for regional groups of provinces, to establish bodies that can test the waters for a new starting point. Most Canadians are apparently ready to see some major radical changes. That was not the case a few years ago. Therefore, I am not unhappy about the fact that Quebec has forced us into a positive exercise to find out what would satisfy the rest of Canada's needs.

We must start from the bottom up over the next generation or, at least, over the next one or two decades. With free trade, with the lack of a cross-country consensus in Canada right now, it is much more useful to start from the bottom up. We must develop a series of counterparts to the emerging Quebec that are based, to a considerable extent, on new and emerging definitions of economic interest.

The increasing importance of regional linkages

It is interesting, for example, to see the degree to which provinces have been getting together with their neighboring U.S. states to look at new economic linkages. These linkages are out of the context of the old central Canada hinterland. Ideally, we should build that effort around, let us say, five regions. We should build from the basis of a better understanding of regional desires — and particularly from an understanding of how provinces and regions can best face a globalizing environment. The desired roles of the central government should then emerge. I am sorry that a political party has taken the name of where we might be heading: Confederation of Regions. There is quite a potential for that approach. When we look at Europe, certainly after 1992, we find standards and frameworks that are often more integrating than we find in Canada. With symbolic acceptance of the individual sovereignty of the constituent unit of the European Community, you have a base of confidence from which you can give up more authority to a central agency for economic purposes.

We do need to have participation along the route. All governments should have standing legislative committees on economic and constitutional affairs that would listen to groups. In past exercises, I was encouraged that these legislative committees often reflected people more than bureaucratic imperatives. They were more prepared to be radical in accommodation than the proponents of executive federalism who had government interests to protect and who often blocked necessary accommodations. But we cannot have such groups as broad constituent assemblies make the final decisions. Whether it is the labor-management bargaining model or the international-bargaining model, we have got to emerge with a deal.

I did examine one exercise with potential: it was "Destiny Canada", which brought together 520 people from across the country for a week at York University 13 years ago. It was fantastic. I have never been in a situation where we changed Canadians' views so radically with well-directed chairpeople and rapporteurs with clearly defined questions. People were forced to come face-to-face with the issues that the country was facing. If that exercise had continued, we would have had publicly supported radical change in that period just before the Quebec referendum. Unfortunately, such exercises were overtaken by government-to-government exercises and by the massive confrontation between the Trudeau view and the Quebec view. Maybe it is time to get back to this kind of grassroots, multilateral exercise before we get into the specifics of the constitution again.

HARVEY LAZAR
Deputy Chairman,
Economic Council of Canada

You are arguing for some sort of grassroots effort at the regional level. I share that view. But I am not sure what you would do now that the Spicer process has started. If you found regional interest in a grassroots exercise, would you have that regional effort run parallel to the Spicer effort?

DON STEVENSON
Associate to the Principal,
Glendon College

Yes. You don't have enough time to have them sequential. The Spicer timetable goes to the end of next spring. There would not be anything particularly wrong with having regional efforts begin before Spicer reports. It seems to me that the Spicer group is basically a listening exercise.

THOMAS E. KIERANS
President, C.D. Howe Institute,
and Spicer Commission Member

The Spicer Commission

It is basically going to be a listening exercise for a variety of reasons. First, the internalization of the situation in Quebec is intense. Nobody in Quebec is really interested in talking to Spicer — or to the rest of Canada. Quebecers want to get their own act in order.

That does not mean that Spicer would try to internalize the Bélanger-Campeau report. That is clearly not "on". Point one: we would have to say which report. Point two: there is going to be a Quebec Liberal Party report. Point three: there are a number of things that keep getting left out of these reports that nobody talks about. There are a lot of things that Quebec wants out of this process — and that we have to give them. It would be madness to break up a common market, for example; we do not want to disentangle a currency, for example; they do not want to take their share of the debt, for example. We are in a negotiation: we have to give to get. But for the first time, somebody has got to explain to Quebec that Quebec has got to give to get, too. When English Canada finally wakes up, that is what is going to determine the basis of the negotiations. These are early days.

Still, we should give the Spicer Commission a chance. There is a danger associated with the Spicer report: we can put questions to people, but those people must be aware of the full range of their options, choices and tradeoffs. If they are not, the Spicer Commission might simply harden people's prejudices. That would widen the divisions within the country. Any report on this basis would simply constitute an unscientific, out-of-date poll. That is Spicer's real area of difficulty.

Having said that, it has to be fair to talk about the process as an end in itself. A few years ago, Tom Courchene [School of Policy Studies, Queen's University] and I were involved in Energy Options. The process was actually very good: it brought the environmental movement together with the energy industry — and it provided the energy industry with an opportunity to understand what they were not otherwise going to understand.

ROBERT YOUNG
Department of Political Science,
University of Western Ontario

Toward a constitutional convention

We have some provinces that are now setting up commissions. Peter Russell [Department of Political Science, University of Toronto] has proposed that those commissions, under strong pressure to arrive at consensual positions, might be combined, either immediately or later on, into a larger body. That larger body could possibly formulate some response to the demands which are going to be made from Quebec when Bélanger-Campeau reports.

PETER LESLIE
Department of Political Studies,
Queen's University

Peter Russell would argue that a constitutional convention could impose some discipline in the present arrangements and energize the process.

DOUGLAS HARTLE
Department of Economics,
University of Toronto

The public will no longer accept the results of executive federalism. It would be much better to have an elected constituent assembly. You might draw these people from provincial and federal legislatures — but you must include opposition members and you must include local governments. You must insist that this constituent assembly devise viable alternative proposals. It is silly to have a referendum until you have arrived at proposals that make some sense in terms of the popular will.

KATHERINE SWINTON
Faculty of Law,
University of Toronto

I am worried that we are jumping on the "constituent assembly" bandwagon. Before we can have a constituent assembly, we must agree upon its structure. We must decide such issues as the weight of regional voices, whether Quebec has a veto, what groups should be represented. The danger is that the debate about process will become a proxy for the debate about substance.

DON STEVENSON
Associate to the Principal,
Glendon College

I think that a constitutional convention would be very much possible — but not yet. We have to go from the bottom up in developing a sense of regional interest and in determining where regions are going. We must do that before we can get a national exercise that will work properly.

ANTHONY CARELESS
University of Toronto

Court-driven constitutional change

Constitutional adaptation is as much a reality of our life together as formal constitutional change. Our constitution-like relationships change inexorably. The question is not whether we change the constitution. The question is: Where is it changing right now? We do want to keep our eyes on the legal values of our society. The courts are inexorably saying something about the constitution. The Supreme Court is articulating constitutional principles and values. There will always be swings on "peace, order, and good government" and swings on "trade and commerce". There is a legal culture here that we must bear in mind. Unavoidably, it is going to participate in the political process.

MARTIN ABRAMS
Assistant Secretary to the Cabinet,
Federal-Provincial Relations Office

After all that we have read about the reasons for the failure of Meech Lake, we still do not seem to have a sense of how to forge a consensus in this country. Richard Simeon [Department of Political Science, University of Toronto] pointed out that the government could not produce consensus in the mid-1980s. That was when the best conditions existed: the government was very popular — and the economic times were good. What hope do we have over the next four or five years?

ALTERNATIVES TO CONSTITUTIONAL AMENDMENT

Most blueprints for a reconstructed Canada focus on amendments to the constitution. But this is only one means — and throughout Canadian history, not the most important means — to adapt federalism to new needs and aspirations. The existing constitution is open and flexible. Without altering it, federal-provincial agreements and financial arrangements, judicial decisions, and ordinary legislation can bring about significant change in the balance between governments and the relationships among groups.

Many participants argue that we should fully explore such nonconstitutional changes, since they tend to be less conflictual, to involve lower stakes, to be less burdened with symbolism, and to be easily corrected if they do not work. Any solution will probably combine some constitutional changes with imaginative use of these other instruments. Bryan Schwartz sets the stage for this discussion.

BRYAN SCHWARTZ
Faculty of Law,
University of Manitoba

It may be commonplace now to assume that constitutional change means formal amendment. It may also be commonplace to assume that a constitution does not consist of the products of ordinary legislation and ordinary political decision. But those assumptions are certainly a departure from our oldest traditions.

Are formal amendments necessary?

So let me dare to be nonradical and nonapocalyptic. At least as a possibility, I want to consider the prospects for important, wide-ranging structural change that does not involve immediate, formal constitutional amendment. The British tradition was not the tradition of an unwritten constitution: it was almost entirely a written constitution. But you cannot distinguish those constitutional texts from other texts by formal criteria or formal process: you can have an act telling how to have elections, an act telling how to set up an administrative tribunal, an act for amalgamation with Scotland. It looks like an ordinary piece of legislation. You change it like an ordinary piece of legislation. That situation is changing slightly in Britain because of the European Community: it is now recognized that when you get into irrevocable changes, you might want to have special processes such as referenda. Still, that traditional approach to constitutional change remains very dominant in Britain — and it is certainly part of our own history.

There is a lot of legislation that is important and structural — and that affects intergovernmental relationships and day-to-day life. But that legislation is not in the formal constitution. The *Canada Health Act* may be as important as anything in the constitution. The establishment of the Supreme Court, of the federal courts, and of the entire system of administrative tribunals did not involve formal constitutional amendments. If you look at many of the issues that Quebec raised in Meech Lake, almost all of them had antecedents that were achieved — to whatever extent — through ordinary processes of negotiation and legislation. Look back at the recognition of Quebec's distinctive language and culture: there is a Quebec charter of the French language, Bill 101. That Quebec charter is not formally entrenched. But it does have a certain importance, maybe even a sacred value, in popular perceptions. Look at federal-provincial fiscal arrangements. Look at the immigration agreement between Quebec and Ottawa. The withering-away of the Senate, until recently, was an ordinary political process — not a formal amendment.

Change through agreement and statute

That is what we have done. The question remains: What can we still do? I think that the answer is: With imagination, a lot. First, we might find consensus to build a Canadian economic union. We should have at least as much internal trade in Canada as we do in the European Community. But, in some respects, such as government procurement and recognition of professional credentials, we do not. Second, we could make changes to relegitimate the Canadian government by cleaning it up. The abolition of patronage and the end of plutocratic election financing do not require formal constitutional amendment. They could be done by ordinary statute. Third, we could figure out how to bring provinces into treaty negotiations — without formal constitutional amendments. Fourth, we do not need a formal constitutional amendment for arrangements that devolve substantial power to aboriginal communities. It could probably be done through unilateral federal legislation — and it could certainly be done with the concurrence of two orders of government. Fifth, we could further develop French-language policy.

What about the most controversial issue under the existing constitution: the "notwithstanding" clause? Legally, the bottom line is that Quebec can do what it wants with the "notwithstanding" clause. The problem is political: Quebec does not like being criticized for using it. We do not need a formal amendment to solve this problem. Instead, all ten provinces could simply say that it is now okay to use the clause. (I would be *against* doing this!)

Advantages of nonconstitutional change

The point is that we can do a lot in terms of practical arrangements and political symbolism without formal amendments. What are the advantages? First, there would be less technical and stringent consensus requirements. Second, it would be open to revision. I blench at the hubris of supposing that anybody, individually or collectively, is smart enough to sit down and figure out what Canada should be like in 50 years. We have to experiment. Finally, proceeding by the ordinary legislative process means that we somewhat lower the symbolic stakes. The process becomes less cumbersome. We could try to deal with things one at a time — as opposed to collectively. In contrast, if we have a constitutional package, it is quite evident what is *not* in the package.

And the drawbacks

I can think of three reasons why you would *not* want to proceed by this route. First, you might say that you need formal constitutional change to overcome the existing impediments in the constitution. In other words, you need to amend the constitution because the existing constitution prevents you from doing what you want to do. My response is: The existing constitution does not prevent you from doing as much as you might think.

Second, you might want permanence — that is, the security of entrenched changes. You might argue: "We do not have enough trust in people to do something through ordinary legislation — because ordinary legislation can be taken away later." I can understand why people would think that way. It is especially understandable among people such as aboriginals, who regard themselves as having a history of being betrayed. Security is a good thing. On the other hand, maybe you can get more concessions if your bargaining partner is not obliged to set any concessions in stone.

Finally, you might want formal constitutional change because you want the symbolic affirmation that comes from having your gains formally installed in the constitution. The constitution has started to acquire a secular sacredness in Canada. It has become the repository of symbolic aspirations. In some ways, this is the most difficult problem to confront. You can tell people that, logically, this is not how they should feel. But if this is how they feel, this perception is a reality. You can, however, build on the fact that everybody has been criticizing the formal constitutional amending process. You can say: "What is the big deal about formal amendments if we all recognize that the process of securing them is so difficult? Maybe we should just get on with it now — and entrench it later." In other words, you could emphasize that nonconstitutional changes could be the first step toward eventual entrenched change. People could try economic union, reform at the Bank of Canada, even experimental Senate reform. You could say: "Here is the experiment. If it works for five or ten years, maybe we could sit down and entrench it." The path of constitutional amendment is a lot easier when you are trying to crystallize what exists. It is more difficult when you invent new schemes and expect people to subscribe to them.

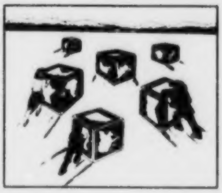
Participation and consultation are needed, whatever the method

I think that these more informal processes deserve the name of "constitution" in many cases — even if they do not amount to formal amendments. That means that if you do proceed through these informal processes, you must remember the lesson of Meech Lake: public participation. You cannot go back to the old elite accommodation and backroom deals — even if you are proceeding through ordinary legislation and administrative arrangement. Even if you are amending the Supreme Court through ordinary legislation, for example, you should put out a White Paper, see what people have to say, and try to build a consensus. There are people who still think that you can remedy the current problem through backroom deals and various constitutional and non-constitutional gimmicks. It seems to me that they have learned a lot less about maintaining political sanity than they ought to have learned.

I want to add one final note. There has been a lot of bashing of various constituencies here: the people, the media, the lawyers. It is time that the academic community took a hard look at itself. In a number of cases, the academic community has been significantly co-opted by political powers, whether economic or governments. In my view, the academic community should be playing the role of independent critic and not the role of apologist for any particular constituency.

SESSION FOUR

FEDERALIST ALTERNATIVES



How do we put the building blocks in place so that the new structure is a stronger federation still called "Canada"?

SESSION FOUR:

FEDERALIST ALTERNATIVES

The federalist playing field

In the previous session, Alan Cairns asked the difficult question: "What game are we playing? Are we still considering a renewed and reformed federal system or are we playing the disengagement game?" We are obviously playing both games, however difficult that may be. The discussion begins with an exploration of the federalist playing field.

CHAIR:

STEFAN DUPRÉ

Department of Political Science, University of Toronto

Eye on Ontario

I want to start this session with a comment on Ontario's various constitutional options. On the one hand, it is worth bearing in mind that Bob Rae has a pivotal role: he is not only Premier; he is also Minister of Intergovernmental Affairs. Historically, the Ontario New Democratic Party has had notable sympathy toward special status for Quebec. Whatever Ontario's constitutional review will be, it will smack of Ontario regionalism, which, of course, always involves positing that Ontario is Canada. This could shed a great deal of light on the acceptability of special status.

On the other hand, it is worth bearing in mind the extent to which the political climate has changed, particularly in the wake of the Free Trade Agreement. The sympathy of social democrats for special status could be very much negatively colored by the extent to which, for example, the Bélanger-Campeau recommendations are couched in free trade rhetoric. As result, I emphasize that the playing of the Ontario card may do a great deal to help sort out the various options that we have before us.

THE STATUS QUO

The first federalist alternative is to muddle through with incremental variations on the status quo. Given the difficulty of achieving agreement on major change, the status quo may be the default option — as it has been so often in the past.

ROGER GIBBINS
Department of Political Science,
University of Calgary

Let me begin by noting the enduring, if not necessarily endearing, attachment that Canadians have to a constitutional fix. We believe that there is a constitutional solution to the problems that we face — whatever those problems happen to be. We should really know better by now.

The virtues of the non-constitutional route

The Canadian constitutional system from the 1960s demonstrates two things. First, on the nonconstitutional or nonlegal front, the Canadian political system has been very, very flexible. As Bryan Schwartz [Faculty of Law, University of Manitoba] pointed out, we have done a great deal in terms of constitutional adaptation. Canada is a very different place than it was in 1960. When we look at the formal constitutional arrangements, however, we find that change has been very difficult and very painful to achieve. I suggest that there is a general lesson here: we should abandon the belief in a constitutional fix.

There is a Western Canadian parallel to our situation. Since at least 1980, Western Canadians have been prone to trot out Senate reform whenever constitutional issues are addressed. When Western Canadians talk about Senate reform outside the West, the message that they get is: "Wake up and smell the coffee. This is not in the cards. Why do you keep talking about this?" Maybe the country should also wake up and smell the coffee — because global constitutional change is going to be very difficult.

The most likely options: The status quo or an independent Quebec

To defend the status quo seems like an odd option, given that the status quo is clearly unacceptable to Quebec. To defend the status quo also seems to fly in the face of the exhortation from the organizers of this meeting: "Be bold and visionary." I do so, however, because I am convinced that we really only have two constitutional options: we have the status quo; or Canada begins to chart its own constitutional destiny, independent of Quebec.

The constitutional middle ground has disappeared in the bog of Meech Lake

The constitutional middle ground has disappeared in the bog of Meech Lake. As a positive step, we might take off the table such proposals as sovereignty-association and probably asymmetrical federalism. Proposals such as sovereignty-association are constitutional non-starters — certainly in the West and probably in other regions of the country.

As well, there are a couple of "process" realities that enhance the appeal of the status quo. First, we cannot have another "Quebec round". If we are going to have another constitutional round, it must be an "everybody and everything round". It must address Quebec, aboriginal peoples, Senate reform, whatever. Second, that process must be governed by large-scale public participation.

When I consider this combination of an immense constitutional agenda and large-scale public participation, I do not think that constitutional reform is in the cards. It is not going to work. We have a constitutional process that functions rather poorly — even with a light load. I am not sure that it is possible to handle an immense load.

There are other recommendations for the status quo. First, I was alarmed when some economists suggested that we rebuild our constitution to address questions of national debt or changes in the global economy. I am also alarmed that we may take too precipitous an action in reconstructing our constitution to fit the needs of Quebec. My fear is that we may be positioning ourselves to face the 19th century, rather than the 21st century.

The decline of regionalism

To explain that, I would like to address an underlying assumption that we have had here about the strength and durability of regionalism and regional identities. That assumption has to be questioned. I am not sure that regionalism is an enduring characteristic of the Canadian federal state.

If you listened to the debates in Western Canada on the Meech Lake Accord, you would have been struck by the small role of regionalism. When people talked about the Meech Lake Accord in Calgary, it was hard to tell that they happened to be in Calgary. Because of the issues that they addressed, they could have been almost anywhere outside of Quebec. If you listen to what the Reform Party has to say, particularly to what Preston Manning has to say, you notice that he speaks almost exclusively about an economic agenda and fiscal conservatism and social conservatism. The party is not pursuing much of a regional agenda. In fact, the issues that are dominating the political agenda in Western Canada have little to do with regionalism and are not all that unique. Therefore, I would argue that the durability of regionalism should not be assumed. At the very least, it should not be a bedrock on which we build a new constitutional order.

The Reform Party: Nationalism without Quebec

Next, I want to come back to the Reform Party. In an odd sense, what we see in the Reform Party is a resurgent Canadian nationalism — but it is the one-Canada nationalism of the Canadian West and of John Diefenbaker. It is monochromatic nationalism. As Diefenbaker found out, of course, this nationalism is impossible if Quebec is a part of Canada. If Quebec is not a part of Canada, however, this nationalism begins to have considerably more appeal. The Reform Party is appealing to a kind of nationalism that makes sense if Quebec leaves — and makes no sense if Quebec stays.

Finally, I want to talk about the nature of the rest of Canada. It is clear that people are groping for the right term. We do not like the term "English Canada". We do not like the term "rest of Canada". I think the emerging term is probably going to be "Canada". People outside of Quebec are going to start appropriating "Canada" as the term to describe Canada without Quebec. In that sense, we see the resurgence of a different kind of Canadian nationalism. In that sense, like it or not, the Reform Party is probably the cutting edge of change in Canada because it is trying to recoup or recapture Canada as a term of political discourse.

PETER LESLIE
Department of Political Studies,
Queen's University

Counterpoint: Regionalism persists

Roger Gibbins said that regionalism is in decline and that Western complaints about the Meech Lake Accord were not couched in regional language. To me, however, the question is whether that nonregional language is the same language that is used in all parts of Canada. It is one thing if people put forward strongly nationalist visions of Canada or strongly nonregional concepts of what Canada should be. But if those visions are not congruent among the regions, we are in trouble.

Some of our attention should be focused on this question: Is there congruence among the nonregional definitions of Canada? In fact, the message that I have heard from many Westerners is: "We do want to be part of a strong Canada. But we also want the rules to be rewritten — essentially along the lines of the Triple-E Senate. The Senate would be the vehicle through which we would get a fundamental redistribution of regional power within Canada and substantially different policy outcomes."

While poll data show much greater coincidence of regional opinion, we also have an upswing in regional identities. Those two tendencies have been going against each other for some time — and that trend has been increasing. What do we make of that? As another element in the puzzle, look at the enthusiasm within the West for the message of Clyde Wells. I know that he was supporting a rather extreme version of the Triple-E Senate. But I would also have thought that some of the opinions that he was expressing were quite contrary to the opinions that I have heard in Western Canada. That is an example of the difficulty that we face when we disregard regional differentiations.

A final element of the puzzle is the Reform Party. On the one hand, it does seem to be articulating a view that we hear in different parts of Canada. At the same time, I do not see any sign that it is breaking out of a regional base.

ROBERT VIPOND
Department of Political Science,
University of Toronto

Having it both ways: The virtues of public ambiguity

One of the difficulties of suggesting a strategy of "muddling through" is that it will always appear as the argument that one uses when other constitutional arguments fail. Andrew Petter [Faculty of Law, University of Victoria] argued that the *Constitution Act, 1982* formalized and thereby privileged political values that were acceptable to elites in English Canada — but inimical to elites in Quebec. As well, at least for the past decade, the problem has not been so much in the answers that we have provided — but in the way that we have framed the questions.

Over the past ten years, and with increasing frequency since 1982, we have been looking at constitutional questions in terms of conflicting visions of the country. There are, of course, various visions. There is, for example, provincialism versus Canadianism; there is the old language of federalism versus the new language of rights. I was struck, for example, by the Prime Minister's statement on the use of the "notwithstanding" clause. He said that any constitution which provides for the violation of individuals' rights is not worth the paper that it is printed on. We can see that the two poles — "either" and "or" — are somehow defining the debate.

That was not always the way we looked at constitutional questions in this country. In fact, if the "muddling through" options are to work in the future, it will be necessary to rehabilitate what I call the "tradition of public ambiguity". Under that tradition, it was recognized that we wanted to have it both ways. That was not a bad thing. Indeed, our public philosophies sometimes lead us both ways — that is, they lead us in ways that make our "either-or" choices unacceptable. The tradition of public ambiguity actually moderated and civilized political debate.

The example that I know best has to do with the way that arguments for provincial power were put under federalism. In the late 19th century, for example, the argument for provincial autonomy was done in the language of individual rights in English Canada. It was done by means of a complex analogy to liberalism. Indeed, provincial autonomists often argued that the provinces were to the federal government as individuals were to the state.

In the future, we are going to have to come to grips with the extent of public ambiguity as a constitutional principle from Quebec. The concept, for instance, of some larger economic superstructure is hardly crystalline in conceptual clarity. It seems to me that it would be worthwhile to rehabilitate the legitimacy of thinking that we can have it both ways. We should at least not exclude that possibility.

WILLIAM WATSON
Visiting Associate,
Americas Society / Canadian Affairs

The inevitability of unanticipated consequences

I have been reading [British political theorist Edmund] Burke lately and, not surprisingly, I have concluded that our constitutional cup is one-quarter full, rather than three-quarters empty. Burke said that "government is a contrivance of human wisdom to provide for human wants." Taking this instrumentalist view, I am not convinced that altering the constitution is going to give us appreciably better government than we have now. I am even less convinced that this is what the debate is about. Like Garbo, Quebec simply wants to be left alone. There is little that the rest of us can do about that.

When I look at the way that we provide for human wants in Canada, I conclude that we have quite a successful society. We obviously do not have the best of all possible governments. I would much prefer that all Canadian governments pursue more market-oriented policies. But short of writing specific policies into the constitution — such as "The government will always balance its budget" — I cannot see how shuffling responsibilities between levels of government or changing the way that we run elections or even reforming the Senate will bring appreciably better policy.

Economic science is notoriously bad at predicting what will happen when fundamental conditions are altered. Its most valuable lesson is that governments should be very careful in conducting policy because policy will almost invariably have unintended consequences. Knowing this about economics, I cannot believe that political science has evolved to the point where it can confidently predict the consequences of fundamental changes in the way that the country governs itself. I prefer the mess that I know to the mess that I do not know.

The central issue for Quebec is symbolic

That gets us to the nub of the issue. The current debate is not really about instrumentalism — that is, it is not about what constitutional arrangements produce the best policies. This debate is not about economics. In Quebec, the independence movement would like to have economic powers. But it says that it is not going to use those economic powers because it is either going to have a currency union with the rest of Canada or it is going to adopt the U.S. dollar and get into a free trade agreement with the United States. The debate is not about language or culture. Quebec already has all of the powers that it needs to protect its language and culture. Granted, control over communications would permit Quebec to outlaw English-language television. But the true danger to the French language and culture comes from American television.

What more does Quebec want? The problem within Quebec today is essentially symbolic. Increasing numbers of francophones simply find it demeaning that people outside Quebec have a "say" in what goes on in Quebec — even when they only have that "say" through a federal government that, for the past 30 years, has been run by Quebecers or been extremely deferential toward Quebec. This mentality has existed for a long time — and I believe that it will persist. True, the same mentality is sometimes observed in other parts of Canada — but never to the same degree (aboriginal peoples excluded). It is probably true that the vast majority of Canadians outside Quebec still think of themselves as Canadians first, citizens of their home province second. I expect that observation is no longer true among Quebecers.

It may have been possible in the mid-1980s to paper over this fundamental difficulty with essentially cosmetic constitutional change. This is what the Meech Lake agreement attempted to do. But the Meech Lake debate increased the disaffection among Quebecers to the point that "papering over" is no longer an option.

Do we therefore proceed to fundamental constitutional change in the hope of keeping Quebec on board? My view is that we should not.

English Canada neither needs nor wants constitutional change

Quarrelling aside, our current constitutional arrangements are obviously not inconsistent with a high standard of living and a substantial measure of freedom. It is not clear that any other constitutional arrangements would better serve most Canadians, especially English Canadians. Therefore, I do not see why English Canadians should give them up. Nor is it clear that there is a strong desire for fundamental constitutional change outside Quebec. Most Canadians do not care very much about the constitution.

First, what should we *not* do? The genius — and the fatal flaw — of Meech Lake was the fact that the other provinces got what Quebec wanted. Special status for Quebec was cleverly avoided. Opponents argued that this strategy gave too much power to the provinces — and that it would eventually lead to the withering of the federal government. That argument was wrong with regard to the Meech Lake Accord. It would certainly be correct, however, in the next constitutional round. Quebec's minimal demands in the 1990s are likely to be maximal by any traditional standard. If all provinces receive the powers that Quebec is likely to want, it would probably be equivalent to doing away with the central authority.

Special status, therefore, seems inevitable. We should not go very far with the devolution of further powers to Quebec. As Czechoslovak President Vaclav Havel has written, it is better to found constitutional relations on truth. First, Senate reform aside, large numbers of Canadians are not greatly dissatisfied with the constitutional status quo. More accurately, while no one prefers the status quo, there is widespread disagreement on what constitutes a better alternative. So the status quo is an option that must be on the table. It should probably form the basis of the federal government's negotiating position.

Second, the principal purpose of "sovereignty-association" or "substantial devolution of powers" is to allow Quebecers to feel psychologically free of the "humiliation" of having Ottawa "interfere" in Quebec's affairs. That is certainly the way that the issue is being sold in Quebec. Since "sovereignty-association" or "substantial devolution of powers" absolves Quebec of allegiance or emotional attachment to Confederation, it effectively means the end of Canada. Ottawa should not cooperate in this process. If Quebec really wants independence, it should be required to take risks for its independence. There should be, for instance, no guarantee that close association would follow independence.

Finally, sovereignty-association will not fly. It would be simpler and more sensible to have two sovereign countries that establish good foreign relations than to try to cobble together the kind of superstructure that Premier Bourassa has talked about.

A possible package

What should we do? We should put together a constitutional package that codifies the status quo, enshrining all the powers that Quebec currently enjoys. We should also allow Quebec to have some role in nominating civil-law justices — although we should provide some method of breaking a nomination gridlock. We should make explicit —

although not constitutional — the Canadian Radio-Telecommunications Commission's implicit guarantees to Quebec about English-language penetration. We should provide a "distinct society" clause — although we should make it clear that it is only designed to tell the Supreme Court to keep doing what it did in the sign-law case — where it said, in effect, that English-only signs could be regulated in order to maintain Quebec's distinctive identity.

Then we should say to Quebec: "This is as far as we are willing to go. Take it or leave it." We should not make any commitments concerning what happens after a Quebec declaration of independence. We should not entertain speculation about what sovereignty-association might look like. We should talk about the obvious virtues of the status quo.

If Quebec no longer feels at home in Canada, it should leave. We are all adults. There will never be an emotional commitment to Canada in Quebec. That is what English Canadians have wanted — and have tried to buy — for the past 30 years. We should not change a society that functions well. Instead, we should roll the dice: Quebec proceeds to a political debate on the status quo versus independence. If the status quo wins, we are home free — until the next round of discontent. If not, after a referendum for independence, we should start talking.

Either no change or big change

But we have no right to do away with the country — which is what substantial devolution would do — without a clear vote that this is what both Quebecers and non-Quebecers want. In other words, we should have no change or very big change. Intermediate change does not work. We can do a little face saving: we do not have to maintain the precise arrangement. But it has got to be substantially the same arrangement. Take it or leave it. If you leave, we can talk. But there will be no guarantee. As Burke said: "Rage and frenzy will pull down more in half an hour than prudence, deliberation and foresight can build up in a hundred years. The errors and defects of old establishments are visible and palpable. It calls for little ability to point them out. No difficulties occur in what has never been tried."

PAUL BOOTHE

Department of Economics,
University of Alberta

Westerners' preferred Canada is not the status quo

I will not disagree with the facts presented by Roger Gibbins [Department of Political Science, University of Calgary]. I do want to disagree about the implications. When we say that Westerners are "pro" strong Canada, I am sure that is right. But my version of "pro" strong Canada is not the same as William Watson's. The Canada that Westerners feel strongly about does not currently exist: we are talking about a Canada with substantially rewritten rules.

People have been saying that this debate is not about economics. I counter that economics plays a big role in what Western Canadians think. I want to pull out that tired example of the National Energy

Program. A five-year or six-year recession started with the NEP — whether or not it was the total cause of that recession. For a lot of senior baby boomers in Western Canada, particularly in Alberta, the NEP meant the loss of their jobs, often the loss of their businesses, the loss of their homes and the breakup of their marriages. They have just started to get things back together in the past four or five years. They will never forget that experience. So when we think about reconstituting Canada, we have to beware of the "muddling through" option. Western Canadians will not accept "muddling through". They will not tolerate a situation where the NEP could happen to them again.

MICHAEL J. TREBILCOCK
Faculty of Law,
University of Toronto

Putting the terms on the table

William Watson [Visiting Associate, Americas Society/Canadian Affairs] has said, "Take it or leave it — and we can discuss later what the consequences are." I am of two minds about that approach. There may be something to be said about specifying the consequences ahead of time. That is, will we be open to a monetary union? How will the domestic debt be shared? On what terms would we contemplate some kind of common market? How much integration would we require as a precondition of reentry? My guess is that it is rather too easy for people who want to exit to think about these questions quite abstractly — without having some hard numbers on the table.

CENTRALIZATION

The second federalist option is centralization. In the current context, it seems to have few defenders. But many opponents of the Meech Lake Accord supported this approach, at least implicitly, when they argued that the accord diminished federal powers and threatened national standards.

KEN NORRIE
Clifford Clark Visiting Economist,
Department of Finance

Centralization is not acceptable, but a redefined federal role can be defended

Centralization is clearly out of the question if it is understood to mean a centralized Canada of ten provinces, with the reentanglement and the retaking of tax room. That approach is obviously not acceptable to Quebec. More importantly and more recently, it is equally unacceptable anywhere in the rest of Canada. Any kind of "centralization" accommodation that Quebec might seek — inconceivable as that is — would no longer be acceptable outside of Quebec.

It is very likely that we will have a monetary union in the new accommodation of Quebec. But that is the most that we can hope for. Basic policies such as equalization are going to go. But a monetary union, coupled with the absence of equalization, implies increased emphasis on such policies as the free flow of goods and services, the free flow of capital, and perhaps, to some extent, the free flow of labor. Quebec economists, who are speaking to the Bélanger-Campeau Commission, are talking about a common market arrangement with the rest of Canada that is freer than anyone might think. I conclude that a monetary union and the absence of equalization will mean greater emphasis on the removal of some interprovincial trade barriers.

Centralization for the rest of Canada?

In any event, there is a second kind of centralization: a fairly radical devolution to Quebec but a "recentralized" rest of Canada. There is even a constitutional mechanism that we could use to accomplish this. I am quite struck by Tom Courchene's [School of Policy Studies, Queen's University] suggestion that we could use section 94 of the constitution [which would allow English Canada to transfer back powers to the central government].

It might be said that my suggestion flies in the face of the evidence of regionalism. Perhaps. I am not entirely convinced by the opinion polling on the salience of region. To some extent, you get what you ask — and people answer these questions in the context of the existing model. Western Canadians, for example, come out highest in terms of regional alienation but also among the highest in terms of identification with Canada. I am struck by the Reform Party, which is not, in any sense, a separatist party. The Reform Party is the party that wants "in" — that is, it wants a strengthening of what is called intrastate federalism. It is calling for stronger regional representation in the national institutions. Stronger regional representation goes against the kind of decentralization associated with provinces.

The costs of decentralizing

The third way to approach the question of centralization is to ask: "What do we lose if we decentralize?" I do not think that decentralization would mean a lot of disharmonization of tax bases because I believe in the competitive federalism model. Economic reality will force harmonization and standardization.

We do, however, lose three things. First, we lose the commitment, and probably the means, to conduct regional equalization schemes. As we disentangle taxes, the federal government is going to lose the capacity to equalize. It will certainly lose the will to equalize. Equalization has been an important feature of Canada.

Second, we are going to lose the incentive to invest in the most mobile economic factors such as skilled labor and research and development. The smaller the jurisdiction, the larger the spillovers. It is simply less likely that small decentralized units are going to invest in these factors. But we need more and more of this investment in an increasingly global environment.

Third, we are going to lose the visibility and the legitimacy of the center of government. What can we do about that?

A redefined federal role

We could decentralize some functions. But, at the same time, we could have a renewed federal role. This renewed national policy would be less concerned with programs of "place prosperity" — and more concerned with the provision of human capital and competitiveness. To ensure the competitiveness of the national economy, the national government would reinforce the economic union and the interprovincial flow of goods and services.

What would that get us? First, it would be efficient. Second, it would be equitable — because these grants would be on an individual basis. I like the idea of vouchers. They would be inherently equalizing, which would make up for the loss of equalization. Third, it would increase the legitimacy and the visibility of the federal government because Ottawa would be seen to be delivering services to citizens in addition to simply taxing them.

I argue that we can view this suggestion as a centralizing impulse. That is, it involves new initiatives of the central government that would be directed toward individual Canadians. These initiatives would exist alongside a devolution of other powers to the provinces. To that extent, the concept of centralization may not be dead.

BRYNE B. PURCHASE

Senior Policy Analyst,
C.D. Howe Institute

Ottawa will reassert itself

The center cannot hold anymore; we are into some fundamental restructuring. But the center is not going to fold, wither away, and die. It is going to fight back. Those at the center will not simply surrender. No one in the federal government now believes that Ottawa is getting any credit for anything. So let us imagine, for example, a scenario in which federal bureaucrats and politicians say to themselves: "If we can discover some pan-Canadian values that are shared across this country, and if we can get out from behind the blind of provincial governments by changing the fiscal arrangements, we could speak directly to individual Canadians through voucher systems. We could replace this complicated route of federal-provincial transfers."

My point is that Ottawa might be able to pull it back together again in a centralized framework. It would be very difficult — because of Quebec. But the government of Canada will do everything that it can to stay in power — and it has options to do so. Some people believe that we are going to get a constitutional conference at which power will be devolved. I do not think that will happen. Instead, I predict that the government of Canada will fight back. They have options — and centralization is not a dead option.

REBALANCING CONFEDERATION

The third federalist option is rebalancing Confederation, shifting powers upwards and downwards to achieve the closest possible match between citizen preferences and efficiency in the delivery of services. Michael Trebilcock draws a broad distinction between the economic realm, where he would strengthen some federal powers, and social and cultural policy, where he would leave the greatest room for provincial variation.

MICHAEL J. TREBILCOCK
Faculty of Law,
University of Toronto

Governmental roles

The issue is not centralization or decentralization. It is whether we can centralize some powers and decentralize other powers. I would be prepared to decentralize many powers — social policy, cultural policy, language policy — if that is what makes the regions happy.

The federal government could also have new powers. The treaty-making power, for example, is an area where Ottawa is present but it cannot bind the provinces. Ottawa should be able to bind the provinces. That is a substantial disability in negotiating economic arrangements with foreign powers. We should be encouraging trade treaties that are ratified by a Senate that is perhaps constituted as a House of the Provinces. I can imagine a House of the Provinces that has directive powers with respect to interprovincial barriers to trade. This new Senate could tell the provinces to change policies that distort the common market. And it should be able to enforce those directives. In turn, the federal government could underwrite the domestic adjustment policies, particularly the labor market adjustment policies, that may be required in the wake of these economic liberalizations.

There are spillovers, such as the environment, where the federal government would have a legitimate role. Ottawa could maintain a presence in basic research, for example, through such means as research councils.

A more representative system

In order to legitimate functions of the central government, provincial or regional representation is clearly required. Indirect analogies can be made with the European Community — which has been built "up" from member states. In Europe, the integrating forces that led to the "federalizing" or centralizing of institutions have been primarily economic. The member states play well-defined roles in the central institutions. In contrast, social and cultural policymaking remains the primary preserve of the member states. As we contemplate the possibility of reordering our constitutional arrangements, we should take sustenance from the sense of exhilaration that Europe 1992 has generated among its citizens.

In summary, I see the national level putting a business proposition, not only to the rest of Canada but to Quebec. A business proposition that makes the minimum appeal to passions and loyalties might be salable: decentralization along one plane; some centralization along another.

A salable option — but who will sell it?

My problem is: Who is going to put this proposition to Quebec? The session chairman, Stefan Dupré [Department of Political Science, University of Toronto] has talked about the Ontario New Democratic Party. But that party does not believe in free trade and it does not believe in the removal of internal barriers to trade. Is the present federal government going to put this proposition? Is it going to be some unholy coalition of the New Democratic Party, which wants to tear up the Free Trade Agreement, Jean Chrétien, who wants to tear it up, and the Reform Party, which probably does not want to tear it up? Who is going to negotiate this business proposition with Quebec? There is, after all, a business proposition that could be sold.

JEAN-PIERRE VOYER
Project Director,
Economic Council of Canada

Quebec needs a "business proposition put to it"

I like the expression "business proposition to Quebec". We have to realize that we overestimate the consensus that exists in Quebec. There is certainly consensus with respect to political sovereignty. But sovereignty-association is far from being a well-defined concept. The likelihood of a consensus statement from the Bélanger-Campeau Commission is fairly low. The commission is mainly driven by the business community with an implicit contract with the labor unions. How long is that going to hold?

There is much room for a federal political party to walk in with a business proposition to Quebec. That proposition would accommodate the taste for political sovereignty, but, at the same time, it would articulate the terms of the association. That work is not being done in Quebec. Even Jacques Parizeau is speaking in terms of a renegotiated structure in which power could be devolved to Ottawa in the areas of transportation and communications. So there are cards that are not being played; there are opportunities for business propositions.

DON STEVENSON
Associate to the Principal,
Glendon College

The German model: The center legislates, the states deliver

We can look at such examples as Germany, where the federal government is very powerful in terms of broad legislative capacity, coordinating capacity, and framework legislation. But it delivers very, very little. Until last year, it had a capital city in Bonn of not more than 200,000 or

300,000 people. But it is one of the chief dynamic industrial powers in the world.

DAVID CAMERON
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Europe: Rebalancing with a vengeance

It is likely that the European Community model will play a significant role in Quebec. It will be seen as a point of reference for those who wish to combine a sharp increase in political autonomy with the advantages of continued economic association with the rest of Canada. But the European Community is far too complex to serve as a single, unequivocal role model. Its very richness as a model means that it can be used by those who recognize the necessity of major reform — but who wish to reconstruct their country, not to take it apart. In fact, Canadians who want to reconstruct their country could do far worse than to take a leaf or two from the Book of Europe.

Combining political autonomy and economic integration

First, let us consider structure. When we ponder the reform of Canada's institutional arrangements, there is a tendency to think almost exclusively in structural terms. Contrast this static structural approach with how one can examine the European Community: where it is coming from; where it is going; where it is. In fact, its role as a model will vary radically according to the perspective. For an English-speaking Canadian, two elements are notable: first, there is a dynamic integrating process under way in Europe; second, the states of Western Europe are moving in the direction of a full-scale federal system. For the nationalist in Quebec, two other elements are notable: first, the members have been and remain sovereign states; second, the European Community presents the appearance of an association that combines economic integration with political autonomy — that is, the material benefits of a large economic unit are combined with the preservation of national distinctions.

Next, let us consider sovereignty. Clearly, the nations of Western Europe were sovereign. Are they still sovereign? I would contend that the significant point is not the degree to which Western European countries remain sovereign. Instead, it is the extent to which they have progressively abrogated the principle of sovereignty since the EC's formation. This has happened both substantively and procedurally.

Substantively, EC legislation predominates over a wide and growing domain of national law. In Canadian constitutional language, broad and crucial economic powers are identified as concurrent fields of jurisdiction with EC paramountcy. EC treaties and accords establish an economic constitution of Europe. European institutions such as the Court of Justice preside over the relevant domestic law and policies of member countries.

Procedurally, member countries have moved progressively away from the [confederal] principle of unanimous voting and a veto for all

Voluntary restraints on national powers

toward a system of majority decisionmaking. (Significantly, that system uses differential weights, depending on the size of the member country.) EC members are gradually imposing significant constraints on their individual capacities to block EC developments that a majority of members believe to be in their common interest.

Fluid mandates, not a strict division of powers

Third, let us turn to the division of powers. In Canada, we think about the division of powers in static terms: powers are assigned to jurisdictions; if historical circumstances and the evolution of our national life render the assignment unclear or contentious, we go to court.

The EC is very different. It does not start from a compartmentalized allocation of jurisdictions but from the assignment of a broad mandate. It does not posit a static and unchanging reality. Instead, it builds the principle of dynamism and change into the very assignment of the mandate. The conception that gives life to this key element is the idea of progressive integration. Article 3 of the Treaty of Rome establishes 11 general economic objectives for the European Community — and it confers the power to pursue those objectives on EC institutions. In areas where the Treaty has not specifically provided the necessary authority, it creates a residual power that allows EC action "where it is necessary to attain one of objectives of the Community." In addition, apart from certain matters relating to national security and property ownership, there is no domain expressly reserved in the Treaty of Rome for member-state jurisdiction. Finally, Community law prevails over national law in case of conflict. In consequence, each time that the EC enacts a new measure in fulfillment of one of the Treaty objectives, it incrementally expands its own jurisdiction.

Should Canada embark on a process of reconfederation, it is worth considering this dynamic principle, which is designed to foster the progressive integration of an association of free peoples.

Governing the European Community: Executive federalism rampant

Fourth, look at the operation of executive federalism. That system is taking a beating in Canada in the wake of Meech Lake. If Canadians wish to see a system where executive federalism is rampant and triumphant, they should examine the EC. Perhaps the EC's confederal origins explain the dominance of national executives and Eurocrats in its operation. To a Canadian, however, it is astonishing to see the degree to which national political elites run a highly integrated economic association, effectively unaccountable to democratic EC institutions.

The Council of Ministers, which is composed of a changing slate of ministers from the member states, is the EC's legislative body. It has the authority to enact Community legislation. The Council is supported by the Commission, a body of officials appointed by the member states. The Commission initiates legislation for Council consideration, ensures compliance with EC laws, and implements EC policy. The Brussels civil servants work for the Commission. The democratically elected European Parliament is a bit player with a relatively minor consultative and supervisory role — although its powers are increasing modestly with the growing integration of the Community.

Central powers in the EC: More than Quebec would give to Ottawa

Finally, let us examine the relationship between economic integration and political union. There appears to be no significant stream of nationalist thinking in Quebec that questions the desirability of close, continuing economic ties with the rest of Canada. Instead, the issue in Quebec is: What do close economic ties imply with respect to political association and the nationalist's desire for autonomy or sovereignty?

In the EC, there are certain matters that fall unquestionably into its domain. The list is considerable — and their importance in the lives of European citizens is profound. The Treaty of Rome establishes EC authority over external trade; agriculture and fisheries; competition policy; the securing of the EC's "four freedoms" — movement of goods, persons, services, and capital. As well, directives for harmonization in 1992, which are designed to implement freedom of services and of capital, cover banking, insurance, securities, recognition of professional qualifications, intellectual property, labor practices, transportation, telecommunications, and broadcasting. The EC also aims to harmonize its value-added taxes in 1992.

Finally, the Single European Act, which came into force in 1987, added the following responsibilities — although several had already been subject to some EC regulation: economic and monetary cooperation, worker health and safety, regional development policy, research and technological development, environmental protection, and the coordination of foreign policy.

We must contrast these powers with the Quebec Chamber of Commerce brief to the Bélanger-Campeau Commission. That brief enumerated the powers that it believed should fall exclusively within Quebec's domain: education, science, research and development, culture, justice, communications, labor, interprovincial trade, internal transport and navigation, coastal fisheries, manpower, regional economic development, the environment within Quebec's borders, native affairs, health, social services, urban affairs, recreation and tourism, income security (including unemployment insurance), welfare, family allowances, and old age pensions. By my count, virtually half of the Chamber's fields of jurisdiction fall within the EC sphere of jurisdiction. A European Community model might argue as much for a strengthened federal system and an improved Canadian economic union as for their replacement.

Toward a new social contract

What we need in Canada today is a new social contract, a new expression of the legitimate terms of the Canadian union. From the EC model, we can draw two reflections: one, the central and most creative elements of the EC experience — with the exception of the feebleness of the institutions of democratic control — would serve the task of reconstruction better than the enterprise of deconstruction; two, a number of the techniques that the Europeans have used in their efforts to construct a united Europe might have a role in any Canadian process of radical reform. The Europeans built from a relatively limited economic agreement that established a common community for coal and steel. They began by discovering mutually beneficial economic relationships. They continued by expanding the territory of economic cooperation and mutual benefit. Even today, the formal centerpiece remains economic. Yet today's Europe is much more than an economic association. The strategy was to build a permanent peace and a union of European peoples on the foundation of common economic interest. The Europeans saw the task as a process — not as a single event. They built the principle of dynamism into the process. Perhaps embedded in our situation and in the example of Europe there is a common enterprise to be discovered.

JEAN LAPONCE
Department of Political Science,
University of British Columbia

The Swiss solution: Language and culture to the provinces, economic roles to the center

I advocate the Swiss solution. It goes against the Charter of Rights. But if we put aside part of the Charter, it has the advantage of requiring few changes in the present system of government. It also has the advantage of respecting the spirit of balanced federalism. Most importantly, it facilitates evolution through the differentiation of functions.

To a 19th-century policymaker, the very idea of applying Swiss solutions to Canadian problems would have seemed ludicrous. We now know that the size of the country is a minor factor compared to its types of ethnic cleavages. Indeed, Switzerland is particularly relevant to Canada because both countries have major linguistic cleavages, both countries have a nonrevolutionary tradition, and both countries are small powers that do not project their strength beyond their borders — except economically.

Switzerland has used different strategies to regulate its economy and defense and to regulate its culture. The economic and security functions became centralized. Culture remained localized and, on a number of occasions, even increased its degree of regionalization. Specifically, language rights have become increasingly territorially grounded and nontransportable. The "equality clause" of the Swiss constitution has been interpreted to mean that all citizens have the right to move across cantonal lines, together with their money, their goods, their freedom of speech, and their religion. But they may not move their language rights. On various occasions, the Federal Tribunal has ruled that, in matters of language, group rights have precedence over the individual rights guaranteed by the equality clause. When one crosses a linguistic divide in Switzerland, one must, with minor exceptions, shift to another language for all matters regulated by the local public authorities. That means that the street signs, the contracts, the public notices, and the public and private schools are in the sole language of the territory. Furthermore, Switzerland has adopted the principle of administrative federalism — that is, the administration of federal matters is conducted, as much as possible, through the corresponding ministries of the cantons. That principle reduces the visibility of the center at the cantonal level (linguistically or otherwise).

The Swiss territorialization of their languages is not written in the constitution. It is regulated by practice, supported by court judgments. In the Canadian case, one would want to write the localization provisions into the constitutional texts since the *British North America Act* and the Charter contain provisions that prevent such grounding.

EDWARD CHAMBERLIN
Department of English,
University of Toronto

If we bring in the model of Switzerland, we raise big questions about the place of aboriginal languages. Aboriginal linguistic rights would likely cut across the neat territorial lines that the Swiss model would create. In fact, European models are not designed to deal with the diversity and geography of aboriginal languages in Canada. We might be creating a whole new set of inequities that might complicate any resolution of constitution issues with the First Nations. Many of these European examples are quite inappropriate to a country in which the First Nations are one of the founding peoples.

DECENTRALIZATION

The fourth federalist option is decentralization. Several factors have recently increased its attractiveness. It potentially blends Quebec's concerns for greater powers with similar demands from other provinces. It thus retains provincial equality. Decentralization also responds to the democratic concern for governments that are closer to the people and to the widespread feeling that national governments may be increasingly ineffective in a world of global constraints. Critics of decentralization wonder what will happen to national standards and to the historic Canadian commitment to regional redistribution.

ANDREW PETTER
Faculty of Law,
University of Victoria

The best of the federalist options

I approach general decentralization in three ways. First, is general decentralization a politically viable alternative? My initial reaction is to say, "No! This is what Meech Lake was all about." My description of Meech Lake is: What Robert Bourassa desired for Quebec, Brian Mulroney gave to all. The Meech Lake Accord tried to compromise Quebec's demands with the other provinces' demands for provincial equality. The fact remains, however, that the deal-breaking elements of the Meech Lake Accord were its asymmetrical features, particularly the "distinct society" clause. Michael Adams [President, Environics Research Group Ltd.] referred to that clause as the "hot point."

Moreover, if we are going to play the federalist game, general decentralization is the most hopeful game. "Muddling through" will not, in the long term, be acceptable to Quebec. Asymmetrical federalism is clearly not going to be acceptable to whatever we now call the "rest of Canada." Centralization will not be acceptable to Quebec — and I suspect that it is not going to be acceptable, at least, not uniformly acceptable, to actors in the rest of Canada.

That leaves us with decentralization. And I suspect that we are left with decentralization for much the same reason as it provided the thrust of the Meech Lake Accord: it does provide at least the potential to square the seemingly conflicting demands of Quebec for increased and special powers with the insistence of the rest of the provinces that they be treated as equals. So, if we are going to play the federalist game, decentralization is the game that we ought to be playing.

Quebec may push decentralization too far for the rest of Canada

I do not think, however, that it is a game that will easily succeed. First, the measure of decentralization that would be necessary to satisfy Quebec would likely be unacceptable to key elements of the rest of the country. Michael Adams has suggested that there is a shift to regionalism in the rest of the country. We have heard contrary remarks. I did not see any absence of regionalism in Western Canada during the Meech Lake episode. I simply think that suspicion of Quebec knows no regional barriers — and therefore does not have to express itself in regional rhetoric. Certainly the affinity between Clyde Wells and some of the Western anti-Meech Lake forces would bolster that view. Notwithstanding these strong shifts toward regionalism, however, I believe that the extent of decentralism required by Quebec will probably not be acceptable to the rest of the nation.

As well, I do not think that a proposal which recognizes the ten provinces as "distinct societies" is much of a "starter". I suspect that it will be found more offensive than appealing in Quebec.

Elements of asymmetry will still be required

So, even though you push decentralization as far as you can, you have to marry it with some asymmetrical features. That, of course, is what happened with Meech Lake. And that is one of the key reasons why Meech Lake failed. Had it simply been decentralist, it might have succeeded.

Second, I want to look at the question of impact. Suppose that we could bring about substantial decentralization that would be sufficient to satisfy Quebec and, at the same time, find support in the rest of the country? The argument could be made that the cure would be worse than the disease. Some would argue that it would fragment Canada's national institutions and spirit to the point that the country could no longer hold together in a meaningful sense. Others would argue that it would lead to the disintegration of social programs and that it would sacrifice the commitment to regional equalization. Economic balkanization would leave us weak and vulnerable in the world.

I do not agree with those arguments. But I may be in the minority on this issue: we will hear strong arguments against substantial decentralization. I contend that decentralization, especially decentralization that concentrates on jurisdictional disentanglement, could, in fact, ease regional alienation within Canada. It could strengthen political accountability and efficiency. And it could lead to a reinvigoration of politics at both the provincial and the national levels.

Combining a centralizing Charter with decentralizing policy responsibilities

I would also argue that pan-Canadianism is the order of the Charter day. That pan-Canadianism would perhaps allows us to be more decentralist without worrying about holding the country together. That is, we would have the Charter — and still decentralize. The Charter would act as a countervailing force that would ease the fears of some people who are concerned about decentralization.

As for social programs, I do not take the view that provincial governments are less committed to such programs than national governments — provided they have the mechanisms and the means to carry through with that commitment. Indeed, I have argued that provincial politics is more sympathetic to such programs because provincial politics is not beset by our traditional regional cleavages. Michael Trebilcock [Faculty of Law, University of Toronto] said that he looked at smaller decentralized units because of their commitment to individualism. I look at them for precisely the opposite reason: they are more homogenous and it is therefore easier to foster a sense of community. Some of the communitarian aspects of social programs flow from that.

We could even retain our commitment to equalization — as long as we do not tie that commitment into conditional grants and shared-costs programs. Instead, our commitment to equalization should operate through unconditional grants, which, incidentally, are a much more efficient way of equalizing revenues.

Why stop at the provinces? Decentralizing to smaller units

My third point is: What kind of strategies will we pursue? We ought to think more creatively than in traditionally decentralist terms. In this country, we view decentralization as the transfer of powers from the federal government as it now exists to the provincial governments as they now exist — preserving all of the institutional frameworks. I think that there are creative possibilities out there. How about shifting some powers directly to municipalities or to regional districts or to First Nations communities? If we were designing the constitution from the ground up today, municipalities certainly would not tolerate the notion that they are subgovernments. Indeed, in certain areas, they would expect some autonomy. Perhaps we could examine that possibility, particularly if we are concerned about giving too much power to the provinces. Maybe we can diffuse power through decentralized initiatives. Maybe we can counteract the provincial power exercised in Quebec, for example, by bringing subgroups into a more decentralized — and more democratic — vision of this country.

Institutional reforms

We could consider a mix of institutional reforms. I agree with previous remarks about rebalancing federalism — and I want to suggest reforms that assist in such rebalancing. We know, for example, that the existing electoral system tends to reinforce regional cleavages within national politics. Perhaps we should consider proportional representation or other creative proposals to try to deemphasize regional identification within our national political system.

There are other possibilities. There could be reforms to the intrastate components of our federal system, such as Senate reform. We could rework some of our existing constitutional mechanisms to better suit our political needs. We could, for example, rework federalism on the basis of five or six regions rather than ten provinces, to provide a better balance among the political districts within the country. We could establish a rule of provincial paramountcy in certain areas of shared concern. A shift from federal to provincial paramountcy in select areas could provide a means of satisfying provincial demands without sacrificing federal power altogether. As another option, the federal government could abandon or limit certain spending powers. This change could be accomplished through intergovernmental agreement without the necessity of constitutional amendment.

Finally, Alan Cairns [Department of Political Science, University of British Columbia] remarked that we are playing two games now. It seems to me that we may be playing two games — but in a slightly different sense than he indicated. That is, we may be in a situation in which, for a whole range of political and psychological reasons, it will be necessary for Quebec and the rest of Canada to consider extra-federal alternatives before we can muster the will to negotiate our way back to a reformed federal system. That system might be called "revised federalism" or "decentralized federalism" or "confederation". My point is that such negotiations may be more politically viable as a second step — after the country has been forced to confront the extra-federal alternatives.

ERIC KIERANS

Former federal and
Quebec cabinet minister

A regional federalism

I firmly believe that, 20 years from now, we are going to wind up with a kind of regional federalism. And I do not worry about that. We must think about the question: Whose priorities count here?

I want to give two examples. In 1964, there was a federal-provincial conference in Quebec that was basically on the pension plan. The feds did not think that Quebec had a pension plan. Therefore, they thought that they had to inflate the agenda. They looked for something that would appeal to Quebec — and they came up with youth allowances. Youth allowances met a particular regional problem. Premier Jean

Lesage was determined to keep everybody in school until the age of 16. But he had to find some way of paying off farmers in marginal situations who were using 12-year-old kids. Nobody else saw the need for youth allowances — but Prime Minister Lester Pearson added it to the agenda. When the topic came up, Nova Scotia Premier Robert Stanfield brought up the question of priorities. He said: "We have absolutely no call for this in Nova Scotia but I suppose my esteemed colleague from New Brunswick is going to adopt this." Louis Robichaud nodded. Stanfield said to Pearson: "Now there is going to be increasing demand for this. But you have not told me how I am going to pay for my half of the costs." At what price do we have national standards? Why do we always have to argue for "national standards"? If something good is being done in one province, it will naturally flow across provincial borders.

The same thing happened over medicare. Everyone at a federal-provincial conference wanted medicare — but the conference reached no conclusions. When it was over, Pearson announced, "We are going to have medicare in Canada." None of us from Quebec had heard about this. We went back to Quebec. Pearson had said that it was going to cost about a billion dollars — and that he would pay half. That meant we had to find about $125 million. It was late 1965 — and $125 million was a little hard to collect. One of the things that we dropped was something that we needed very badly: $5 million for blueberry warehouses.

In federalism, you are going to have to drop the words "national standards" and "universality". You are going to have to let the provinces set their own standards and priorities. At the time that medicare came in, education was actually a bigger priority with us. But Ottawa took our priorities away from under us.

Fewer national standards, less universality

ASYMMETRICAL FEDERALISM

The old word was "special status". The new word is "asymmetry", a form of federalism in which one or more constituent units have differing powers and responsibilities. Canadian proponents of this model argue that it is the only way to meet Quebec's aspirations and to retain the stronger federal presence that many other Canadians desire. Opponents worry that constitutional asymmetry may be simply a way station on the road to independence. It would also create great difficulties for the operation of parliamentary government. Ron Watts shows that there are many elements of asymmetry in our existing constitutional order and that it is a common feature of other federations.

RON WATTS
Institute of Intergovernmental Relations,
Queen's University

I am inclined to believe that we are at the stage where radical solutions are the only possible ones. We have at least got to look at them. It is true that pragmatic incremental adjustments would be preferable: the experience of other federations indicates that these adjustments are easier to achieve than comprehensive constitutional reform. In the current polarized situation, however, incremental change will almost certainly be inadequate. Perhaps we should not be too depressed by this fact. After all, Confederation itself was a radical solution to what were constitutional problems at the time, especially within the united Canadas.

In this situation, the issue appears to be: How do we reconcile the impulse for centralization, which is unacceptable to Quebec but for which there is considerable strength within the rest of Canada, with the impulse for decentralization, for which there is considerable strength in Quebec but which is likely to meet considerable resistance in the rest of Canada? One obvious option is some sort of asymmetry in the jurisdiction and roles of the provinces within the federation. True, there is tension between the principle of provincial equality and the principle of provincial asymmetry. The rejection of the "distinct society" clause in the Meech Lake Accord was the rejection of a modest proposal for asymmetry. I agree, however, with Alan Cairns [Department of Political Science, University of British Columbia]: the need for a more radical solution might be better understood in the wake of the failure of the Meech Lake Accord.

Dimensions of asymmetry

We must first consider, however, the tension between the principles of equality and asymmetry among provinces. First, there are theoretical considerations. Asymmetry applies to three aspects of federations: the constituent units themselves — that is, size, population, wealth; jurisdiction; and representation at the center. Alan Cairns has added a fourth possible aspect: the operation of the Charter of Rights. [Oxford University expert on federalism] K.C. Wheare argued that equality of provinces was preferable for the effectiveness of federations — but was not a defining characteristic of federalism. In contrast, some Canadians, such as Clyde Wells, have elevated equality of the provinces to a defining characteristic. There are wide variations among federations. The United States and Australia provide examples of provincial or state equality. In contrast, there is clear asymmetry in jurisdiction in Malaysia and some elements of asymmetry in jurisdiction in Germany and Switzerland. There is asymmetry in terms of representation in central institutions in Germany, Switzerland, and India.

Tensions between equality and asymmetry

Second, Canada's history creates tension between elements of provincial asymmetry and provincial equality. These dual pressures have coexisted. We often overlook precedents for provincial asymmetry. The *British North America Act* itself contains: section 93(2), which introduced some asymmetry regarding education; section 94 regarding civil law; section 133 about minority language rights; and Senate representation, which gives more Senate seats to New Brunswick and Nova Scotia than to Western provinces. In 1951, section 94A provided for the paramountcy of the provinces in the concurrent field of pensions, laying the groundwork for "opting out" arrangements and, hence, for asymmetry. As well, sections 38 and 40 of the *Constitution Act, 1982* allow the provinces to "opt out" of amendments that transfer powers from the provinces to Ottawa. Those sections also provide for "reasonable compensation" for the "opting out" provinces in education and culture.

Against that trend, we have had the pressure for provincial equality. Alberta has been the strongest champion of provincial equality — especially in its quest to remedy its unequal position in the jurisdiction over resources. It has been highly successful in achieving its objectives: provincial equality was greatly strengthened between the Victoria proposals of 1971 and the *Constitution Act, 1982*. The Charter further strengthened provincial equality: it has fostered the notion of symmetrical citizenship. Look at the different reception that the Charter has received in Quebec and in the rest of Canada. Look at how it was used by opponents of the "distinct society" clause. Other pressures for provincial equality include fiscal equalization and the operation of "executive federalism", which treats each of the First Ministers as equals. Finally, there is the Triple E Senate proposal, which emphasizes provincial equality as a primary basis of Senate representation. It does this at the expense of the role of the second chamber as the protector of significant national minorities: a national linguistic group with 24 percent of the population, for example, would get only 10 percent of the seats in a Triple-E Senate.

Meech Lake: Equality and asymmetry

To some extent, Meech Lake attempted to reconcile the twin pressures of provincial asymmetry and provincial equality. There were elements of equality: powers that Quebec wanted, such as powers over immigration, were extended to other provinces. There were also elements of asymmetry: the "distinct society" clause. The implication of the failure of Meech Lake is that asymmetry is unacceptable to the rest of Canada. But the Quebec reaction to the failure of Meech Lake may mean that the rest of Canada will have to recognize that radical asymmetry is the price of continued federalism. In future, major change may be more achievable than minor change. One of the problems with Meech Lake may have been that we proposed relatively minor change in the direction of asymmetry — to which was attached great symbolic significance. Confronted with the alternatives of separation or a larger measure of asymmetry, the rest of Canada may find that a larger measure of asymmetry is the preferred solution.

Asymmetry 1: Reshaping the units

Let us now examine devices and examples of the "asymmetry option". First, let us consider the asymmetry of units — in terms of territory, population, and wealth. We have talked today as if the provinces must continue with the boundaries that they now have. But let us remember that the 1867 solution involved dividing one of the units into two new provinces. We should ask whether there should be a redefining of provincial units within the federation. It is true that the range of difference between the smallest and the largest units in Canada is not much different than the range in the United States. Compare, for example, California and Rhode Island with Ontario and Prince Edward Island. That example, however, does not reveal the whole picture: California does not come close to representing the percentage of the total federal population in the United States that Ontario represents within Canada.

A more relevant example is Northern Nigeria, which represented approximately half of the population of Nigeria until it was split up into many new provincial units. As well, there is the example of Prussia in prewar Germany. That problem has been solved in the reunited Germany by dividing the single unit of East Germany into five units. Finally, there is the example of East Pakistan before it split away from the larger unit of Pakistan. It is worth noting that the political problem of asymmetry would remain in the rest of Canada if Quebec leaves: without Quebec, Ontario becomes 49 percent of the population and 54 percent of the GNP. We do know, however, that we can cure asymmetry to some extent by reshaping units.

Asymmetry 2: Federations within federations

Another form of asymmetry is to adopt a federation within a federation — that is, one of the units within the federation is itself a federation. Some of the proposals from Quebec have suggested a bipolar structure in which Quebec would be united in a federation or confederation with the rest of Canada — which would also continue as a federation. Examples include: Russia within the USSR; Germany and Spain — which is evolving toward an internal federal system — within the EC. Neither German nor Spanish membership within the European Community produces a bipolar superstructure like the structure proposed by many Quebecers. That proposal is more like Pakistan, Belgium, and Czechoslovakia — much less promising examples.

Asymmetry 3: Jurisdiction

A third form of asymmetry involves a situation where each constituent unit has different legislative powers. The major example is Malaysia, in which the two Borneo states have much more autonomy than the other states. But the two states still have full representation in the central institutions — something that Quebec may insist on for symbolic reasons.

Asymmetry 4: Nonconstitutional methods

While asymmetry often takes the form of formal differences in jurisdiction, it is likely that the more effective approach in Canada would be to develop nonconstitutional devices to reflect asymmetry. I suggest seven existing or new devices to enable the development of asymmetry:

- *Opting in*: We could start with certain minimum common powers among provinces. Then we could allow provinces that wish to "opt into" a greater measure of centralization. That is, we would apply the equivalent of the current section 94 as a device for asymmetry.

- *Opting out*: We could begin with a considerable degree of centralization. Then we could allow units to "opt out". Section 94A on pensions, for example, grants paramountcy to the provinces, thus permitting them to "opt out" by passing their own legislation, which would prevail over the federal law. To some extent, sections 38 and 40, which allow the provinces to "opt out" of transfers of power to Ottawa, also reflect this approach.
- We could permit the delegation of powers between governments. Such provisions, common in most federations, enable the federal government to delegate powers specifically, and not necessarily uniformly, to different provinces — and vice versa.
- We could have larger areas of concurrent jurisdiction, allowing provincial variations within a broad framework of federal legislation. Canada has fewer areas of concurrent jurisdiction than any other federation. The highly successful German federation is the best example of this approach.
- We could make adjustments through federal-provincial fiscal arrangements. There are many Quebec examples, such as the fact that Quebec collects its own income taxes rather than using Ottawa as the collection agent as the other provinces do.
- We could have more federal-provincial agreements in specific areas, such as Ottawa's agreement with Quebec on immigration.
- We could make greater use of interprovincial agreements. This would enable two or more provinces to engage in joint action, such as the Maritime provinces do in funding postsecondary education. In the United States or Switzerland, this is referred to as federalism without Washington or federalism without Berne.

Asymmetry 5: Representation at the center

There are probably more examples of unequal representation of provinces in the central institutions of federations than there are examples of equal representation. In Switzerland, cantons are either classified as full cantons or half-cantons and they get one or two representatives accordingly. In the Federal Republic of Germany and India, representation is weighted to favor the smaller states. In contrast, the United States and Australia have equal representation.

One difficult issue is whether greater autonomy of jurisdiction should affect representation in central institutions? Should MPs from more autonomous provinces be able to vote on issues over which Ottawa no longer has jurisdiction in their own province? In a system of responsible cabinet government, this could create complications. A government that has a majority on one issue could lose it on another. In those situations, asymmetry would certainly be complex — but not necessarily unworkable. Another problem would arise if we decided that Quebec MPs would not vote on those areas where Quebec had autonomy. That would virtually guarantee 49 percent of the remaining votes in the

House of Commons to Ontario, which would no doubt be a matter of considerable concern to the other provinces.

These difficulties are sometimes used to discourage Quebec from pressing for greater autonomy. It is a legitimate issue. In Malaysia, despite a radical difference in the degree of autonomy, however, the representatives of the different states take part equally in the central institutions.

Asymmetry 6: Charter asymmetry

Today, with the important exception of the "notwithstanding" clause, the Charter applies equally in all provinces. Many Canadians would not support further asymmetrical application of the Charter because that would imply asymmetrical citizenship. This raises a major issue: is the Charter itself, in principle, inconsistent with the diversity embedded in the concept of federalism? Does it foster excessive uniformity throughout the federation? Federalism and charters of rights are, however, frequently combined — as in India and the United States. The possible inconsistency is minimized if we view the Charter as a basic minimum above which diversity is tolerated. In Canada, for example, the Quebec provincial charter is, in some respects, more advanced than the Canadian Charter.

In conclusion, we need to examine the possibilities and implications of asymmetrical federalism without "emotive horror" at the notion of "special status". Federations have usually been constructed to permit diversity. To assume that there must be uniformity and equality is really to assume a unitary state. Unless we devise arrangements to achieve some measure of asymmetry, I suspect that it is going to be very difficult to resolve the clash between Quebec's desire for more decentralization and the rest of Canada's impulse toward centralization. If we insist upon the principle of provincial equality, Quebec will secede. In that event, the rest of Canada will still be left with the problem of how to deal with Ontario's asymmetrical position in what remains of the rest of Canada.

REG WHITAKER
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Asymmetry clashes with representation at the center

I do not want to be simply negative and destructive, but we are not prepared for the degree of asymmetry that the proposals from Quebec will require. I take the point that there are all kinds of elements of asymmetry that have existed and do exist. But those elements are at a certain level. There is a real problem with trying to accommodate these new demands within the existing framework of federalism. It becomes a qualitative matter — as opposed to a quantitative matter.

The real problem is the level of national representation in the House of Commons. (The Senate is a different matter: it is a second chamber, where you can have equality.) Despite examples from places such as Malaysia, I really find it very difficult to grasp how the legislative process would work in the House of Commons. The House of Commons would include membership from a province that would be in a radically different position than the rest of the country. Suppose that province has an equal role in the House of Commons. Its members would make and break governments. Its members would, in effect, be voting on matters that would be of no concern to its constituents because Quebec would be raising its own taxes and it would be spending that tax money on those matters within Quebec. Yet that province's members would be playing a role for the rest of Canada. I do not think that the rest of Canada would accept that. I am baffled when I try to imagine any arrangement that would allow a legislative body to function and, at the same time, to accommodate those differences.

WILLIAM WATSON
Visiting Associate,
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No new levels of government

I like the idea of reconfiguring the provinces. The province of Toronto has a nice ring to it. The idea of a Maritime Union and possibly a Prairie Union is attractive. We should, however, lay down a principle: we will not increase the number of levels of government. The "confederation within a confederation" idea could be a disaster. You could paint a scenario where the 125,000 people of Prince Edward Island would be governed by a local government, a provincial government, a regional government, a federal government for English Canada, and then a superstructural government. This has the advantage that every member of the Island race is going to be a legislator. But who is going to grow the potatoes?

SESSION FIVE

BREAKING THE FEDERAL MOULD

If federalism is no longer a viable possibility, what lies beyond it? What would take its place? One country, or two, or more? And how would they be linked with each other and the world?

SESSION FIVE:

BREAKING THE FEDERAL MOULD

If the status quo or centralization are not viable possibilities, if Quebec requires more decentralization than the rest of Canada can accept, and if asymmetry is rejected, then the logical consequence is that we must move outside of the federal framework.

Some participants believe that we are already at that point; others do not. All realize that the obstacles to cooperation between an independent Quebec and the rest of Canada are daunting. The transition costs would be high. And there would remain the question of what kind of polity the rest of Canada would create for itself.

CHAIR:

J. PETER MEEKISON

Vice-President, Academic,
University of Alberta

We should not assume that independence is inevitable

I want to share some comments by Rob Martin from *The Lawyers' Weekly* of November 16, 1990. The author suggested that, if the national politicians were not capable of offering leadership, perhaps the intellectuals were capable. As he said: "The idea is not totally laughable. There have been times and places when intellectuals gave leadership to nations, when they articulated popular aspirations and had the courage to inspire people to achieve them." Then the author went to a constitutional conference, hoping to hear something encouraging. He heard nothing: "Most who spoke accepted the dismemberment of Canada as inevitable. Some looked forward to it with enthusiasm. The notion that there might be value in a united Canadian state seemed hardly worthy of consideration, let alone passion."

The key to Martin's article is the notion of "inevitability". While this session's three options are far more than hypothetical, it does not necessarily follow that any one of them is inevitable. The breakup of Canada is not a *fait accompli* — and we may weather the crisis once again. If you read the report from the Royal Commission on Bilingualism and Biculturalism, if you read the Pepin-Robarts report, if you read the parliamentary report in 1972, you will note that everyone has used the word "crisis" — and each crisis was the greatest crisis. While this may yet be the greatest crisis, I am also reminded of the comments in the Pepin-Robarts report that even crises can grow tedious.

Loaded words: Sovereignty-association — or the Canadian Economic Community

To me, the term "sovereignty-association" is like a pacifier. To others, it is like a red flag, particularly the word "sovereignty". The phrase conjures up some variant of decentralization and the development of a different but amicable relationship in certain agreed-upon areas such as currency, trade, mobility of labor, and communications. You will find all those areas in René Lévesque's *Option Québec*. We have had reference to the model of Europe, which is integrating while we are assuming a friendly disintegration. If we are going to point to Europe, then I would strongly recommend that we change our phraseology to a "Canadian Economic Community" or a "Canadian Common Market". That change may — and I stress *may* — generate fewer feelings of hostility toward the concept. Still, if the "distinct society" concept will not fly, I suggest that "sovereignty-association" will have the same problem.

A confederation of five regions?

The second proposition is intriguing: a five-region Canada. Frankly, I do not know what this means. There are three possible interpretations. First, it could be the British Columbia "five province" plan of 1969, which incorporated the territories into two Western regions. That is unlikely to fly. Second, it could be a five-region plan where the territories form one region and British Columbia is part of the West. Those two proposals require five regional governments and one central government. The third model has five regions and no central government — at least as we know it. This is a confederal model patterned again after Europe. Implicit in this proposal are two assumptions: one, if Quebec separates, then Canada will disintegrate; two, the five regions are self-defined. Both assumptions can be questioned. I must add a word of caution (and a lesson from Meech Lake): whenever the map of Canada is redrawn, do not ignore the territories.

A fundamental question: Is Quebec "in" or "out"?

The third possibility — independence — is the real issue. Is Quebec "in" or "out"? The past 25 years have been concerned with the question: What does Quebec want? Efforts were made to discover the answer. There are many today who no longer care about that question. They want to get on with their lives. There is also a generation gap on this issue. Michael Adams [President, Environics Research Group Ltd.] has underlined the influence of the baby boomers. We must now factor this generation into the equation: Do people really care about the issue in the same way that people of an earlier generation cared?

Intentional independence conjures up a Unilateral Declaration of Independence — a dramatic and bold step. I believe that this would weaken, not strengthen, Quebec's bargaining position. The idea of "separate now, negotiate later" may have some immediate political appeal. But it leaves little room to maneuver. It has been the threat, not the deed, that has been effective in the past.

The main event

The unintentional Unilateral Declaration of Independence has two variants: one, being pushed out, as the Reform Party has suggested; two, giving negotiations one last chance with independence as the "fallback" position. Whatever we do in this option, it cannot be seen as Meech Lake revisited. Once the "Unilateral Declaration of Independence" card is played, the rules will change and the players may change. Moreover, if the first set of negotiations fails, there is no reason to believe that the second will be more effective.

This session is like a prize fight. There are usually a few warmup contests — but the questions raised by this session are equivalent to the main event. To use Jean Laponce's [Department of Political Science, University of British Columbia] theory of tectonic plates, when they shift, you get an earthquake. If Meech Lake was 5 on the Richter scale, these issues are more like 9. We should also remember that the aftershock is usually more devastating. A Unilateral Declaration of Independence may be serious — but the aftermath would be far worse.

Finally, we need to address the question of time. The Berlin Wall came down only a year ago. Most of us grew up in a generation that saw the wall go up. To see it come down immediately — and to see the events that followed so quickly thereafter — produces the realization that time may not be on anyone's side. There is a sense in Canada that this discussion will proceed at a very leisurely pace: we will have commissions and then we will come together and we will somehow resolve these things. I am not sure that we have that amount of time. Perhaps we have reached the point where we will suddenly have to come to grips with reality.

SOVEREIGNTY-ASSOCIATION: A TWO-UNIT CONFEDERATION

The Parti Québécois developed the model of sovereignty-association in the 1970s. A sovereign Quebec would form an association with the new Canadian political entity. New bilateral institutions would be created to manage the areas — primarily economic — of shared responsibility. The result would be a confederal system with two units, one of which, the rest of Canada, could itself be a federation. This option is attractive to many souverainiste *Quebecers because it permits independence with the security of little change in economic arrangements. Many participants argue, however, that this option would likely be the least attractive to other Canadians.*

JENNIFER SMITH
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An unworkable model: Beyond the politically possible

When it comes to models, I am only interested in the ones that seem to have political possibilities. But it is now exceedingly difficult to grasp the political possibilities of models — because the politics of this issue seem to be constantly shifting, right across the country. There is so much uncertainty. Provisionally, there are political possibilities for asymmetrical federalism — that is, a rearrangement within the federal system that pursues special status for Quebec. There are also political possibilities in this notion of a confederation of regions, which, whatever else it entails, means greater decentralization.

But I am not so sure about the possibilities in the sovereignty-association option. I understand it as the option that is set out in the 1979 Parti Québécois White Paper entitled *Quebec-Canada: A New Deal.* It is a two-unit confederation in which each unit is politically sovereign, but, at the same time, associated for economic purposes. The White Paper envisages an economic association comprised of a free trade zone, a customs union, and a monetary union. Confederal commissions — with members from both units — are established to oversee the association and to pursue common economic (largely monetary) matters. Each unit is sovereign, however, in relation to its internal affairs and each possesses its own governmental institutions.

I do not doubt that something like sovereignty-association could be negotiated — particularly if the terms were more modest than the White Paper contemplates. Moreover, sovereignty-association is the one option that can accommodate Quebec and, at the same time, permit the other provinces to establish a very strong central government. This means that it appeals to those who are confused about Quebec — yet desirous of a highly centralized federation.

The sovereignty-association proposal, however, seems to be inherently unstable for geopolitical and institutional reasons.

An improbable geography

Geographically, sovereignty-association unhinges the Atlantic provinces from the rest of the country. Just think of it: the three Maritime provinces, off in the North Atlantic, with Maine jutting quite high between them, and then Newfoundland, further off in the North Atlantic. This is not without psychological effect. The hole (Quebec) in the fabric is not only an aesthetically repugnant idea, it will also force people to turn people from the west toward directions that are already more natural — to the east and the south. Then there is the problem of Labrador: it is very clear in the White Paper that the Quebec government envisages Labrador as part of the province of Quebec. But Newfoundland will not want to cede Labrador.

Institutional tensions

Institutionally, it is probable that the central government of the nine provinces and territories will be modified in nonparliamentary ways. An elected second house alone sees to that. Since parliamentary government and party government are practically coextensive, one of the effects could be weaker parties, perhaps congressional-style parties rather than parliamentary parties. Political scientists have regarded political parties as agents of national integration, albeit unreliable ones. But the geography of the country puts a premium on any political institutions that serve such a function. Weaker national parties, or their replacement by regional parties, minimize further the ties that bind.

Tug of war: Economic dynamics versus political will

According to most economists, it makes more sense to talk about the country's regional economies than about its national economy. Moreover, the dynamic of the regional economies is north-south. The important east-west connections are between the West and the Pacific Rim and between the Atlantic region and Europe. It is difficult to establish centralizing political institutions against decentralizing economic forces. In the 19th century, Canada had a hard time establishing those political institutions — and that was in the context of the centralizing national economic policy of Sir John A. Macdonald's government. With sovereignty-association, we would likely have an economic dynamic going one way — while the political will would be struggling to move the other way. That does not mean that the political will could not overcome the economic dynamics. But it would not be easy.

An unstable option

There are other reasons — most of them arising out of the difficulty of treating unequal-in-size members as equals. But primarily for those three reasons, I believe that the sovereignty-association option is unstable in its own terms and, at the same time, subject to a destabilizing environment. I would expect it to come unstuck sooner or later, either because Quebec would experience difficulties or because the decentralist pressures would be ultimately strong enough to send the regions off on their own.

Still, if sovereignty-association does come as a proposal from Quebec, I would not recommend that we reject it. I would negotiate — and, in a sense, try to negotiate it "down".

PETER LESLIE

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A nonstarter

If I am sure of anything in this complex subject, it is that sovereignty-association is a nonstarter — and an abomination from start to end. First, there are the difficulties that Canada outside Quebec would have if it attempted to operate as a unit. I have doubts about whether Canada outside Quebec could work, largely because of the problems that would arise from the domination of Ontario. Second, there is the problem of representation within joint institutions. The White Paper on sovereignty-association emphasized the idea of parity: Quebec and Canada "would be equally represented and have an equal voice in the running of joint institutions" such as the Bank of Canada. This is so clearly unacceptable outside of Quebec that it is not worth consideration. Conversely, if the principle of parity were not in place, I cannot see any grounds on which that kind of arrangement would be acceptable to Quebec. Quebec would be, by definition, in a permanent minority on every issue.

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Monetary union carries lots of other baggage

There is one very important set of economic institutions to consider — namely, the Canadian monetary system. It would be very expensive to abandon that system — and I do not think that anyone would want to abandon it. But you do not have a monetary union in a vacuum: you need other institutions to make it work. You have to ensure such things as capital and labor mobility, the portability of social programs. That requires some kind of political supervision. But the idea that Quebec would have half of the votes in the supervision of the monetary system is absolutely preposterous. Try to imagine that Alberta would agree to give 50 percent of the vote on monetary policy to Quebec. It is ludicrous.

That means rebalancing is a more realistic option

That does seem to rule out sovereignty-association on the old model. It does seem to point very strongly toward the kind of rebalanced federalism that Michael Trebilcock [Faculty of Law, University of Toronto] has discussed. If federalism cannot be renegotiated, we may face a complete separation with Quebec paying the price -- and imposing the price on the rest of Canada — of destroying the monetary system. I do not think we should neglect that possibility: it is not nice and it is not the best, but it is feasible.

The European Community has nothing to teach us

Finally, I note that many people are citing the European Community as a model. I want to debunk that suggestion. The EC came into place as a device for the French farming community to extract wartime reparations from Germany. Even now, agricultural subsidies constitute more than 70 percent of its budget. The main change is that German farmers have also learned how to live high off the hog. The Common Agricultural Policy cannot work with flexible exchange rates. So the Europeans have been driven toward an exchange-rate mechanism and a common currency. You cannot have a common currency without other institutions. To illustrate the importance of the European Community's Common Agricultural Policy, consider the reports that the EC is reluctant to change that policy during the current round of the GATT [General Agreement on Tariffs and Trade]. We must recognize that the European Community *is* a Common Agriculture Policy — and it is not going to adjust itself out of existence. The EC model has absolutely nothing to teach us about the future of Canadian federalism.

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Sovereignty-association for Quebec is a nonstarter unless, of course, Quebec associates itself with the Americans when it declares sover-

The United States is a more logical partner for an independent Quebec

eignty. That is the only intelligent way to do it. After the heart-wrenching process of declaring sovereignty, why would you link yourself to a monetary union that has an interest rate that is 5 percent above where it should be and an exchange rate that is 15 percent above purchasing-power parity with the United States? When you have freedom, you do not lock yourself back into this idiotic monetary union.

It is also true that if Quebec unilaterally declares sovereignty, it is going to have a terrible time bargaining with the rest of Canada, particularly the West. Why would the West agree to reinstitute the old commercial policy that gave such large benefits to Quebec textile workers and dairy farmers? Underlying these comments is my belief that the optimal currency area for Quebec will progressively be north-south, rather than east-west. I hope that Quebec does associate itself with the United States. It will avoid problems of antagonism. And, finally, the United States is the appropriate partner to choose.

A North American currency area

The optimal currency area increasingly in this country is the north-south border region. Simple logic on economic issues will dictate that in five years, we will have — and we ought to have — a fixed exchange rate with the United States. That is a lesson that should be drawn directly from the European Community. Suppose two countries are going to integrate, and one has 80 percent of its exports with the adjoining country. In this situation, it is the height of folly to achieve guaranteed access through free trade and then to turn around and unwind the benefits through exchange-rate variability.

JOHN BOSSONS

Department of Economics,
University of Toronto

I believe that the European Community is a worthwhile example. What it may have been 40 years ago is irrelevant to what it is now. With respect to monetary union, I agree with Tom Courchene. If separation occurs, the argument becomes stronger for the rest of Canada — as well as Quebec — to enter into what is essentially a monetary union with the United States. It is simply hubris to think that, under those circumstances, attention would still focus on a monetary union north of the 49th parallel.

DAVID LAIDLER

Scholar-in-Residence, C.D. Howe Institute, and
Department of Economics, University of Western Ontario

We should keep exchange-rate flexibility

I want to make clear where I agree — and where I disagree — with Tom Courchene. I do think that a Quebec currency pegged to the U.S. dollar is a viable option. I also think that a Quebec currency pegged to the U.S. dollar would not be good for the rest of Canada. That is something that the rest of Canada should bear in mind when it deals with Quebec — because that is the way that Quebec might go. Would the rest of Canada benefit from having its currency pegged to the U.S. dollar at a markedly lower rate than now prevails? I would remind you that the whole paraphernalia of U.S. trade law is still in place. If competitive pressures on the United States are not buffered by allowing the exchange rate to take a market-determined value, you can be sure that the United States will begin to apply its trade law — perhaps to the undermining of the Free Trade Agreement.

ERIC KIERANS
Former federal and
Quebec cabinet minister

The Parti Québécois wants a clean common market

Jacques Parizeau has made it quite clear that you will never have an independent region or state unless you have your own monetary unit. I remember a call from René Lévesque in 1980. He said: "Parizeau keeps saying that I am not to use the word 'independent', because it means that I am going to have my own Quebec money. Is he right?" I said: "He is right." All I heard was "Merde" — and he slammed down the phone. Parizeau has always been for a clean common market, right across Canada. Even if there is separation, there would be a lot of economic harmonization.

REG WHITAKER
Department of Political Science,
York University

Then and now: The sovereignty debate in 1980 and 1990

In a way, we are always looking in a rearview mirror. I would like to point out the contrast between 1980 and 1990. Some of the problems associated with the concept of sovereignty-association were present in the 1980 model of sovereignty-association. We should not automatically assume that those problems remain.

First, remember the context in which sovereignty-association was part of the 1980 referendum in Quebec. Sovereignty-association was poisoned by an illegitimate device that the PQ adopted: it hinged the Quebec people's assertion of their will to be sovereign on the promise of an association with English Canada. But the Parti Québécois had no right to promise that association: it could only come through negotiations with English Canada — after Quebec had broken political ties.

Second, there is absolutely no reason why English Canadians would accept parity on the basis that the Parti Québécois promised it. Nor would the rest of Canada — or even Quebecers — be particularly enamoured with the whole set of bureaucratic institutions that the Parti Québécois promised. Those institutions included a fourth level of government — even further removed from any kind of responsibility to the public — that would overlay the existing institutions of government.

But there are factors that have changed the debate since 1980. The debate in 1980 was prior to the Free Trade Agreement. Consider our session about the impact of free trade and globalization. Free trade and globalization have changed the role of the state in the formulation of economic policy. So the 1980 model of sovereignty-association may be simply out of date. You may not need all that machinery to regulate economic relations in the current economic environment.

As well, in 1990, Quebec nationalism or the desire for sovereignty is no longer the project of a particular political party. The political divisions that were created in 1980 through identification with a particular party no longer exist. Instead, the desire for sovereignty now seems to be something that is emerging on a broad basis out of Quebec society, particularly from the francophone business leadership. That has ensured that sovereignty-association has much more formidable backing within Quebec. English Canada, in turn, must pay more serious attention to it.

A chance to plan

Finally, the present situation does offer, to both sides, the possibility of planning for a change. In 1980, no one was really ready to discuss the possibility of change — so a Unilateral Declaration of Independence was a distinct possibility. A Unilateral Declaration of Independence — where Quebec would put a "take it or leave it" proposition before the rest of Canada — involves dangers. Today, we have the opportunity to prepare ourselves for this eventuality. It remains to be seen whether that opportunity will be taken.

A CANADA OF REGIONS: SOVEREIGNTY FOR FIVE REGIONS

An idea that has received increasing attention is that the most natural and efficient political and economic units in a new Canada would not be the existing ten provinces, but five more equal regions: British Columbia (or British Columbia and Alberta), the Prairie West, Ontario, Quebec, and Atlantic Canada. One possibility is that a sovereign Quebec would associate with the other regions to create a five-unit confederation whose central government would exercise only those powers that the regions wish to delegate to it.

ROBERT YOUNG
Department of Political Science,
University of Western Ontario

A model with more questions than answers

I will say at the outset that "breaking the federal mould" into five regions, which might be formally sovereign and which might still constitute a loose confederation known as Canada, seems neither very probable nor very desirable. I do not think that it is a viable model.

I have reached this conclusion through an examination of the five-region vision — and the assumptions on which advocates rest their case. The five-region proposal projects a symmetrical confederation. Each region would be endowed with the powers that Quebec achieved through negotiations with its fellow regions and provinces or with a crumbling Ottawa. It is not evident how regional amalgamation would occur: it could be built on regional conventions leading to a constitutional convention in Canada without Quebec; it could happen through the "coming together" of provinces after a Unilateral Declaration of Independence by Quebec. The status and powers of regional governments are equally unclear. Would they be sovereign in international law? Would provincial governments in the West and the East disappear? Would the regions delegate jurisdiction over such matters as currency and defense to a new central authority? If so, would such arrangements be constitutionally entrenched or revokable? Would such a "Canada" be sovereign?

The attraction: Combining sovereignty and symmetry

While those matters are opaque, it is perfectly clear that the five-region vision rests on a notion of symmetry. In the constitutional debates of the past 20 years, the symmetry of provincial powers has been a strong subtheme. Pierre Trudeau fought against special status and special powers for Quebec. During the Meech Lake process, the drive for symmetry underlay some provinces' demands for the same powers as Quebec. That same desire for symmetry also underlay resistance to the "distinct society" clause. The five-region proposals owe some of their attraction to the fact that they embody this principle of equality of powers.

But asymmetry would persist

There is no reason to expect, however, that symmetry will prevail in the future — any more than it has proven satisfactory in the past. It need not prevail in a renewed federalism in which Quebec acquires special powers over immigration, culture, and language. Nor is it likely to prevail if regional governments emerge from the breakup of federalism. In that case, Quebec would probably favor the retention of more areas of jurisdiction than other regions: Canada without Quebec could, in fact, become more centralized than Canada. Furthermore, the *indépendentistes*' preferred model is bilateral arrangements between Quebec and Canada without Quebec. In the wake of a Unilateral Declaration of Independence, Quebec might prefer outright independence or negotiations with the United States to the possibility that defense policy, for example, might be determined by the same anglophone majority that now exists or by an even less favorable (four-to-one) balance of forces. Finally, within Canada without Quebec, large disparities in population and economic powers would persist — whatever configuration of regions emerged. The regions are simply not equal. None is like Ontario or Quebec, which have a big, world-class metropolitan region and a large hinterland (with the exception of British Columbia). The combined population of the Atlantic provinces, for example, is 23.9 percent of the population of Ontario. These disparities are sufficiently substantial that equality of representation at the center would be as insupportable as pure majoritarianism. It is true that regionalism does provide symmetry both in respect to Quebec's power *vis-à-vis* the other regions — and in respect to the relative weights of all regions. But symmetry is unlikely to be practicable on either count.

The regions are not natural units...

The second assumption underlying the five-region proposal is that the regions are natural or logical units. That is, political attitudes within them are relatively homogenous — and they have complementary economies. On both dimensions, the empirical evidence is debatable. But some problems are obvious. There are simply no logical regions. Superficially, Newfoundland and Labrador may resemble the Maritimes. But there is little cooperation between these entities. Their traditions are different; their economic interests are surely different. Newfoundland, in fact, may benefit more than any other province by opting for association with the United States: the United States could defend its cod stocks while negotiating better access to overseas markets. Manitoba, in turn, sits almost as uncomfortably in "Prairia" as in "Greater Ontario".

politically...

On attitudes, one often finds the assumption that smaller units are more homogenous and easier to govern. This strikes me as false. What counts is the salience of the cleavages. In linguistic matters, for example, greater Moncton is at least as fractious and as hard to govern as Canada. Conflicts such as those between urban and rural dwellers in Alberta or between francophones and anglophones in New Brunswick are lessened when the groups are part of a larger polity. In larger polities, each can find external allies — with slightly different and thus moderating interests. As well, other issues cut across the local cleavages, rendering them less compelling. In the end, preferences may be more homogenous within the regions than within Canada as a whole. But there is probably not enough difference between provincial and regional distributions to support a shift of powers and loyalties to the regions. There is also little evidence — at least in Canada without Quebec — of sharp regional cleavages in basic attitudes on national identification or in preferences for constitutional arrangements. This may moderate future conflict about constitutional options — but it does not suggest that there is a consensus in any region for a regional solution.

...or economically

A final assumption in the five-region proposals is that regionalization offers economic gains. Some argue that regions might constitute optimal currency areas — and that regional units in the East and in the Prairies might be more viable than the provinces that they supersede. I do not think that the economies of these regions, with the possible exception of Alberta and Saskatchewan, are complementary. In a world of falling tariff and nontariff barriers, competitive advantage will be won through human capital formation and through sensitive and efficient government. On the "human capital" front, it does not seem that centralizing provincial powers at the regional level would produce great gains.

Nor is it evident that regionalization would produce economies of scale in the provision of government services. Such savings are often a function of population density, as in education, as opposed to regional size. And population density is not going to change in these regions. Other savings depend on big "throughputs" through common administrative structures such as cheque-processing agencies. But the size of the regions is simply not going to produce big savings in that area. The gains that could be achieved through eliminating legislatures and bureaucratic duplication might be offset by the need to create more governing capacity at the local level. One final possibility is that intergovernmental competition between regions could produce more efficient public policy. Such gains depend, however, on a strong supraregional umpire that would be lacking in symmetrical five-region proposals. Other gains depend on individual mobility — but interregional mobility would probably be less than the current interprovincial mobility.

Few gains are to be had from economies of scale

In sum, there is little to suggest that the five-region solution could satisfy the yearning in Canada without Quebec for constitutional symmetry or that regions make sense as replacements for provinces, either economically or politically. The current constitutional crisis may end with some powers being transferred to all provinces or to Quebec alone. It may also end with a Quebec Unilateral Declaration of Independence, which could produce centralization in Canada without Quebec or a systemic breakdown in provincial units. In the latter case, dense networks of specialized agreements would be struck among provinces, both within and across regions. (The biggest single community interest that undoubtedly exists in the country is between Ontario and Quebec: they share important assets together, such as the Seaway; they form critical masses of population on a world scale; and there are huge unrealized gains to be achieved through cooperation.) Interprovincial cooperation within the East and within the West would increase.

The five-region solution seems most improbable if it implies the elimination of some provincial authorities, the creation of a weak central authority that is run cooperatively from the regions and the creation of separate regional governments with broad ranges of jurisdiction and elected legislatures. If any regional consideration emerges, it will be very heavy cooperation between Ontario and Quebec — while the rest of the provinces either "come in" on certain terms or make complex multilevel side deals with each other.

In a five-region Canada, the strongest links would be between Quebec and Ontario

I want to add that there is a place for regional thinking at the stage of consultation and negotiation. If we have consultation and negotiation at the regional level, then we may get some "bindingness" on provincial governments — and we may find that agreements are easier to achieve.

ROGER GIBBINS

Department of Political Science,
University of Calgary

I basically agree with Robert Young: Ontario and Quebec form the one natural region in Canada. He then links that idea to an idea that is

A Westerner's skeptical view of an Ontario-Quebec deal

floating through the political science community: if the country is really "going to hell in a handbasket", Quebec and Ontario could reconstitute the political union; then the rest of the country could either "come in" under those terms or "take it or leave it". I have carried this idea from meetings in Ontario to my colleagues in the West. There is little question of what the option would be.

I want to add, however, that I do not think that a Quebec-Ontario region is a stable end-point. Canada without Quebec is a more stable — and a more likely — end-point. More importantly, I sense that there is almost no chance of the West emerging as a separate region or country. A regional union between British Columbia and Alberta, for example, is not in the cards. The Prairies will drift south — simply through the dynamics of continentalism as opposed to a great act of will. It is one of the myths of Canadian politics that Albertans are very much in favor of union with the United States. If you look carefully at public opinion data, that notion simply does not emerge. In fact, support for political union with the United States declines as you move west. Despite people's preferences, however, I think that political union with the United States is the only realistic option on the Prairies.

A Canada of regions is also a nonstarter — because the regional units are simply not stable units as independent units or as amalgamations within some loose confederation.

JOHN CRISPO
Faculty of Management,
University of Toronto

Desperation: Almost anything is better than a breakup

I am so desperate to preserve this country that I would settle for anything. I do not know how far Quebec is going. But I know that it is a long way. I do not believe that many English Canadians have even begun to appreciate what drastic change lies ahead for this country. Quebec's terms for remaining in Canada are going to make Meech Lake look like the fantastic deal that it was for English Canada.

My fear is that even well-informed English Canadians are still engaged in an academic debate about Canada's constitutional prospects that is quite irrelevant. Emotions are taking over — and reason and rationality are becoming less and less telling. This is obviously true in Quebec, where there is almost no one of any stature to defend Canada as it is — let alone the Meech Lake version of Canada. As the rest of Canada realizes what is happening in Quebec, equally emotional and intolerant views will emerge outside of Quebec. All this will be exacerbated by the media. Consequently, the likelihood of resolving the issues on a constitutional or legal basis may recede. Instead, extra-constitutional and extra-legal approaches will become the only resource.

So let us consider radical solutions

Instead of debating obsolete alternatives, we should be discussing more radical options that hold out some hope of getting us somewhere. Nothing less is likely to give rise to anything that will preserve this country. We may be driven to a Belgian-type language policy and to an even more decentralized Swiss-type of confederation than we now have. We have got to have reconfederation — along lines that we are not going to recognize. A council of regents, representing the four or five logical regions, may preside over the central government. Ottawa may be limited to control over defense, foreign affairs, and trade. While a common market may finally emerge, a common currency and monetary policy is less likely as this will require more coordination of fiscal policies than is likely to prove possible.

I really believe that the alternative is to break up. And when I look at the consequences of a breakup, I conclude that Ontario gets killed. If we lose the common market, we lose the auto pact — because the auto pact depends on the Canadian market. Ontario without the auto industry is nothing. If we do not reconfederate on a regional basis, I would not rule out a separate deal between Ontario and Quebec — because that would help us to preserve the auto pact and because that would give a market to Quebec for its apparel and textiles.

Anyone who thinks that we can fiddle with the existing order is totally out of touch with reality. Canada is on the line. Nothing less than a dramatic and fundamental change will suffice to salvage any significant vestige of this country. There are going to be perhaps five or six regions. There is going to be a very weak Ottawa. The arrangement will be symmetrical. Other than total independence, that is the only option that is really worth discussing.

PAUL BOOTHE
Department of Economics,
University of Alberta

A Western Canadian region does make sense

First, I think that a four-region Canada is really the model that we should be considering. I believe that a five-region Canada is an anachronism. This was the view that prevailed prior to 1970 or in the early 1970s when British Columbia was big and important. Things are very different now. Alberta and British Columbia are the same in terms of population and economic power.

Second, Robert Young asked if regions make economic sense. I do not know about Atlantic Canada: those provinces are going to have a tough road, no matter how things play out. But I do believe that a Western Canadian region makes a lot of economic sense. It makes sense as an optimal currency area or, at least, *more* sense as an optimal currency area. Even though our trade is a bit different, we generally have a common invoicing currency. It strikes a balance for allocation: it gets closer to the people.

Finally, there is a strong enough regional identity that people in Alberta are willing to have some redistribution to Saskatchewan and Manitoba. In contrast, people in Alberta are less willing or unwilling to redistribute to Ontario, Quebec, or Atlantic Canada — whereas previously they were willing. That is an important political fact. One of the most important aspects of Confederation now is redistribution. I contend that there is willingness for redistribution inside the region — but not outside the region.

I conclude that the regional model is viable, both economically and perhaps politically.

IRENE IP
Senior Policy Analyst,
C.D. Howe Institute

Regional integration makes economic sense

I would also like to support the idea of some form of regional integration on an economic basis. We have not talked about the diversity of economies. In Saskatchewan, for example, the government had terrible fiscal problems because of its heavy dependence on agriculture. If that economy were combined with an adjacent province, at least, the Saskatchewan government would not have faced such wild swings. If the provinces in Atlantic Canada that rely heavily on resources were integrated with the economy of Nova Scotia, that greater diversity would lessen their problems.

And could reduce the costs of providing public services

Second, I concede Robert Young's point that regional integration might not produce economies of scale in education at the elementary and secondary school levels. But if you could rationalize university-level education among provinces, you could make substantial savings. As well, I cannot believe that combining government departments would not save a tremendous amount of overhead. I conclude that we should further investigate the economic savings from regional integration.

ANTHONY SCOTT
Department of Economics,
University of Ottawa

Would the regions be independent countries?

I am a bit disturbed by the way that we are discussing the "Canada of regions" alternative. Robert Young and Paul Boothe are not talking about a Canada with sovereign regions within it. They are talking about completely independent countries. Their remarks about the feasibility of "going it alone" on trade, for example, dealt with the question of whether these regions would be viable independent economies — as opposed to the question of whether these regions would be reasonable political units within a Canada of regions.

It seems to me that we can do better. The fact that British Columbians and Albertans may not think about some problems in the same way does not mean that they constitute an impossible regional unit. The fact that Alberta and Saskatchewan and Manitoba tend to produce somewhat the same products has nothing to do with the topic. We are not trying to set up a self-sufficient Prairie unit that trades only with itself. That is completely irrelevant.

If not, what is the federal role?

The question is: If you have an exporting region, is it best to be a single unit or to be broken up into several units for social and cultural reasons? If there is to be a decentralized Canada of regions, then there is a senior government somewhere: the national government. What functions does it perform in a Canada of regions? Almost everyone has agreed that the national government has to have something to do with money and monetary analysis. Therefore, once again, whether the Prairies or Ontario is an optimal currency region is irrelevant. We are not talking about whether they need an optimal currency. We are talking about a national country. We have to think about whether people can socially live together with each other within one region — or whether their dynamics and their personalities and their languages make it impossible for them to communicate. That is the way that we should be analyzing it — rather than trying to analyze the transaction costs and organization costs *between* the units.

Obviously, we can all be jammed into one centralized country and get together somehow. Great Britain includes Scotland and Northern Ireland — and once the whole of Ireland. The country did not immediately fall apart because that was done. It worked for a long time. You can centralize and you can completely decentralize. These things are all possible. We are thinking about the best of these mixes. So it is wrong to make such *ad hoc* judgments as "These guys would not get along with those guys" or "These two would not trade." Of course, they would trade — if they had to. What we are looking for is optimum units.

JOHN BOSSONS

Department of Economics,
University of Toronto

Common interests are the basic glue

The fundamental issue is: In what kind of region do we have commonality of preferences? In what kind of region do people think sufficiently in the same way and share sufficient values so that it makes sense to view them as a unit?

A Canada of regions makes a lot of sense if you think of it as a confederation of regions. There is indeed a lot of commonality of interests and preferences in Western Canada, in Ontario, in Quebec, and in Atlantic Canada. Those four regions make a fair amount of sense if you view them as relatively homogenous in terms of preferences.

Regions make sense...

I do not want to overstate that assertion. There are, of course, differences in all of these regions. There are big differences between northern and southern Ontario, between northern and southern Alberta, between Metro Toronto and its suburbs. There are differences among the provinces in these regions. But there is also some commonality of interests within these regions — and that is the basis for thinking of them as potential political units. The political unit may exist only as a mechanism for talking about arrangements. But I reemphasize: there is enough commonality of interests that it is a worthwhile consideration.

...and so does Canada

I also believe that there is a commonality of interest in Canada across all regions. Most people, particularly in Canada outside of Quebec, share important values. I hate to raise a notion as maudlin as patriotism. But I do believe that Canadians feel that they belong to a unit that they believe in. That is something that many people want to preserve. If we think along these lines, there is indeed a lot of value in the notion of a confederation of regions. The regions may themselves be confederations of provinces, which, in turn, are confederations of smaller groups. We make a mistake when we emphasize the sovereignty of regions. Regions are a useful concept in moving toward a potential confederation of regions. That confederation would retain the shared values that constitute what is really important about Canada.

BRYNE B. PURCHASE
Senior Policy Analyst,
C.D. Howe Institute

Common values are more relevant than optimum economic areas

The search for expert solutions in optimal economic units or optimal political units would inevitably move us beyond the borders of Canada. We would begin to carve up North America in a different way. It would not be three countries: it would be a bunch of optimal economic and optimal political units whose boundaries frequently crossed the current borders. If we want to maintain Canada, we will not find the answer if we look for some sense of "optimality" in the political, economic, or institutional structure. Instead, politicians must discover and communicate Canadian values in a vision that keeps the country together. Perhaps that is the psychological or sociological aspect of the constitution debate. But the answers cannot be found in expert solutions.

EDWARD CHAMBERLIN
Department of English,
University of Toronto

The First Nations do not fit the regional mould

We cannot assume that the First Nations are going to fall tidily into one of these five regions. These are our categories — not their categories. If we do try to force the First Nations into these divisions, there is almost certainly going to be some resistance. We are not acknowledging that the First Nations can shut down this country in a variety of ways: through James Bay-type injunctions; through moving to a state of war as we were in last summer — not out of a sense of vindictiveness but out of an instinct for cultural survival.

It is clear, however, that the First Nations would prefer to be part of the solution rather than part of the problem. We have all kinds of opportunities to devise a new federation or a different arrangement. We have had asymmetrical federalism and asymmetrical citizenship, for example, since the passing of the first *Indian Act*.

Sovereignty is a flexible concept

On the matter of terminology, the notion of aboriginal "sovereignty" is troublesome for many Canadians. It has not been troublesome during discussions about tribal sovereignty in the United States. That language has been thoroughly established in the legal and political discourse in the United States for a couple of centuries. It was explicitly repeated by such U.S. presidents as Nixon, Reagan, and Bush during discussions about the ways that sovereignty is delegated and the contingencies of particular sovereignties.

We have been talking about 1992 in regard to Europe. There is, of course, another celebration in 1992: the arrival of Columbus. That is not a bad date to keep in mind. At the beginning of *History of the West Indies*, West Indian historian Philip Sherlock said that Columbus did not discover a new world, he made contact between two worlds, both already old. Our problems present us with opportunities for a new kind of federation — a federation that does not simply cobble together old ideas.

ROBERT YOUNG

Department of Political Science,
University of Western Ontario

The political arguments for regions are weak...

I want to make several comments. First, when Anthony Scott said that he wanted to see a Canada with sovereign regions, I have no idea what that means. It seems to me that we can go two ways. One, the constitutional crisis is going to pass. We are going to have some kind of asymmetrical federalism or general decentralization. There will be no change in the essential units, which are the provinces. Two, we will have some sort of extra-constitutional crisis with a Unilateral Declaration of Independence. That might lead to a centralization of the rest of Canada or to individual provinces somehow trying to determine their own future. But I would argue that there is no serious chance that they would form regional units.

I agree with John Bossons [Department of Economics, University of Toronto]: attitudes and homogeneity of preferences are very important. But the essential attitudes about what constitutes the country depend on such things as education, the family situation, the life history. They do not depend on the region in which people live. People do see the country in different ways — but these differences are not primarily regionally based.

...and so are the economic reasons

That leaves the economic argument. Maybe Paul Boothe and Tom Courchene are right: maybe there is some kind of optimal currency area which is a region. In the 1950s, however, the Atlantic provinces got [Scottish economic advisor] Sir Alec Cairncross to tell them about monetary problems. Cairncross pointed out: "It is true that homogeneous national monetary policy really hurts you here. But the only thing that you could do is set up your own currency." The tradeoff, obviously, is between the transition costs of setting up your own currency and the

long-term gains. Nobody has been willing to accept the short-term costs. And I do not see anybody doing it in the future.

IAN STEWART
Advisor

In defense of a more centralized model

I am beginning to feel increasingly traumatized by this conversation. To use Alan Cairns' [Department of Political Science, University of British Columbia] imagery, there are really three games afoot — not just two. At least, I wish that there were three games. He defined two games: planning for a Unilateral Declaration of Independence; planning in case a Unilateral Declaration of Independence does not take place. The third game is the more traditional Canadian game: What is the prescriptive mythology for a Canada under decentralizing, globalizing, and rationalizing pressures — assuming that the Quebec issue were not there? Is there any longer any centralist rationale for a federal government? Is the intellectual current and the world current toward more and more regionally decentralized models?

I have made it clear that I cling to a more centralized model than a lot of people here. I do so because I have a hard time, in an emotional sense, with the conception of a Canada that is nothing but a loose confederation of optimal currency areas — or simply an optimal currency area in its own right.

Getting our act together — on the ecology and First Nations

I also believe that we are perhaps underplaying some "public good" aspects of the 21st century that are going to drive us back in a more collectivist direction. One of those aspects is ecological. It is true that many environmental depredations are local; it is equally true that many are national or transnational. If we were to assemble a set of myths around which Canadians might congregate in the 21st century, we might consider the notion that we are doing a little better than the rest of the world in the language of ecology. Then there are Canada's natives. Sooner or later, we have got to expiate our collective guilt. We have an opportunity to lead the world in coming to terms with our indigenous population. That seems much more likely to be achievable on a national basis than on an exclusively regional basis.

On education

Then there are the schools. It is true that they are very much a provincial matter. But everyone acknowledges that the fortune of peoples in the 21st century will be associated with the quality of their schooling in a post-industrial world. Yet I am struck by our incapacity to get our act together — either on a provincial or a national basis. As well, every one acknowledges that knowledge industries will have to replace our natural resource biases. If these educational investments are to be made and if these knowledge industries are to be created, these initiatives will have to be, at least in part, centrally driven — and not exclusively provincially driven.

On technology

It also seems to me that we tremble on the verge of a technology — a communications technology, a fiber-optics technology — that re-

moves distance in a technological sense as a Canadian problem. That technology literally connects every Canadian citizen to everything else in the world. We are at the technological moment when the vast span of this nation — which has been of such difficulty to us — is about to vanish. But we are talking about regional models as if that integrating technology were not available to us.

On social policy

Michael Trebilcock [Faculty of Law, University of Toronto] made the neat distinction in "methodological individualism": social policy could be regional and economic policy could be central. He argued that economic policy should remain centralized because the provinces could use it for "beggar-thy-neighbor" purposes. I note that social policy can also be used for "beggar-thy-neighbor" purposes. One of the problems with an excessively decentralized federation is that "uncommon" social policy across the nation appears to be a recipe for the dissipation of any sense of "Canadian-ness". In that area, I find us in an astonishingly bad state. The fact that at least five provinces are considering taxing back the federal GST credit is a serious blow to the national welfare system and to any kind of integration of the Canadian tax and transfer system. It is troublesome decentralist warfare.

On taxation

I cling to the image of a tax transfer system that borders on a negative income tax. Ottawa should reorganize itself in an efficient way to get rid of all disincentive structures — to get rid of the 100 percent "tax-back" features that bedevil our welfare system. Look back to 1941 [when the provinces agreed to surrender the personal and corporate income tax fields to the federal government for the duration of the war plus one year thereafter]. There was a collective sense then that the despairing experience of the 1930s was "lickable" — and that there was a structure of intellectual thought and a construction of state purpose that could lead to a brave new world.

That consensus was shared to a remarkable degree. There were few dissenting voices. As Eric Kierans [former federal and Quebec cabinet minister] has pointed out, the Ottawa mandarins of that day were an enormously centralist crowd. Indeed, they saw the integrating notions of the welfare state as the final opportunity to implement the 1937 Rowell-Sirois report — and to concentrate the welfare functions in Ottawa. It is also true that the foundering of the 1945–46 federal-provincial conference (which went on for 11 months) set up much of the federal-provincial dynamic of succeeding decades. [That conference failed to reconcile the growing claims of both levels of government to income taxation.] The foundering of that conference did not entirely destroy the welfare state dream: it simply took us 20 years longer than the Europeans to put that welfare state in place. Then we put all of it in place in two years — although we put less in place, as compared with the Europeans, than Canadian mythology imagines. We are not social democrats to the extent that we imagine.

A national social contract

Finally, I want to comment on the Europe of 1992. It has been suggested that the push toward the Europe of 1992 has made extraordinary headway because the process is largely driven by social democrats. As well, in Europe, there is an implicit, and hopefully explicit, recognition of a social contract, including a commitment to regionalism. The recognition of that social contract underlies much of the discussions in the Council of European Ministers in Brussels. In contrast, one could almost say that the lack of any conception of social purpose or social contract underlying North American integration is one of the most frightening aspects of that integration — and, indeed, of the Free Trade Agreement. The Free Trade Agreement would, in fact, do less to restructure Canadian society on a north-south basis if there were a more robust national commitment to an efficient and effective social and regional policy.

WILLIAM WATSON

Visiting Associate,
Americas Society / Canadian Affairs

There is more than one national project

I resist the notion that I have to be a social democrat to be a Canadian. Where were we before 1966? I guess that Canada started in 1966 with medicare. I have no difficulty in believing that we will persuade ourselves that we are doing a much better job on the environment. That will be an integrating myth for the 21st century. In fact, it can be an integrating myth now because we do believe it — even though it is not true.

I want to point out that many Canadians thought that the Free Trade Agreement could be a great project for the 21st century. That agreement took on the world in global trade; it was a great Canadian effort to show that we did not need the protective cocoon of government. It illustrated that there were things beyond regulation and legislation that made Canada. Indeed, there might, after 150 years, be a Canadian identity that could be protected.

The essence of a country: What we wish to decide together

These are psychological matters. We are really seeking the optimal political area — not the optimal currency area — and that is a matter of psychology. It was interesting to hear Paul Boothe's [Department of Economics, University of Alberta] observations about the area over which provinces are willing to redistribute. I drew the implication that there were areas to which provinces would not be willing to redistribute. Within Quebec, I doubt that there is a strong desire or even a willingness to redistribute to any other area of the country. Certainly, within the rest of the country, there is great anger about the notion of redistributing toward Quebec.

It is interesting that some redistribution is considered to be still possible, psychologically. That is the kind of thing to consider when you are forming a country. You do not start backwards. You start with fellow feeling and then you build your projects together. It is the process of "deciding together" that is the essence of having a country.

RICHARD SIMEON
Department of Political Science,
University of Toronto

Could Quebec share in a centralized vision of social democracy?

If one looks at the free trade debate and at the Meech Lake debate, there is a lot of support for Ian Stewart's vision of the country. I want to ask Ian Stewart: If one were to go with that vision, would you accept that the reasonable price would be that Quebec would not be part of it? If so, do you think that the rest of Canada could organize around Quebec's departure?

IAN STEWART
Advisor

I tried to disassociate my vision from games one and two — that is, planning for a Unilateral Declaration of Independence, and planning in case a Unilateral Declaration of Independence does not take place. I recognize that cannot be. But I could argue that if the vision were found first, then dealing with the separation debate might be easier. That is, if we really have intellectual excitement generated out of a new consensus about Canadian purposes, then dealing with the structure of the "rerelationship" with Quebec might be easier. I believe that it is an error to focus exclusively on the structure of the "rerelationship" with Quebec as a constitutional issue.

OUTRIGHT INDEPENDENCE FOR QUEBEC: EITHER INTENTIONAL OR UNINTENTIONAL

If an association between an independent Quebec and the rest of Canada is unworkable, what about a much sharper break, with no assumptions about common policies and no shared institutions? Such outright independence might include a treaty, along the lines of the Canada-U.S. Free Trade Agreement, that establishes rules of conduct. Even a minimal treaty, however, might be hard to negotiate following a declaration of independence. The participants raise all of these issues. But they turn increasingly to a more philosophical — and anguished — exploration of the question raised earlier: What makes a nation? Marcel Côté leads off with a vigorously stated case for the continuation of the federation — but in a highly decentralized form.

MARCEL CÔTÉ

Partner, Secor

I would like to elaborate on a viable solution to Canada's constitutional turmoil. I can be sufficiently brash to state that this is where the country will end up eventually. The only question is whether it will be in three or four years from now, after a fairly civilized debate, or in ten to 15 years from now, after a protracted debate.

Opinion in Quebec is now solidly behind sovereignty

First, let us be clear about the state of mind of Quebecers. Sovereignty dominates, by far, as the most favored political option. Between 60 to 70 percent of Quebecers now prefer some sort of independence option from "closet" sovereigntism to radical separatism. Three out of four Quebecers would now vote "yes" in a referendum. This percentage is not about to decline. It is solid and can only grow. There is a critical psychological crossing here: once a Quebecer has changed his or her allegiance, he or she is not likely to see-saw in the future. Furthermore, the economic argument — the high cost of independence — does not work anymore. Independence is perceived to be as benign as going to the dentist — that is, there would be short-term pain that would yield immediate relief and solid long-term benefits.

Roadblocks to a sovereign Quebec: Who negotiates?

This does not mean that there are not problems on the road to independence — and that public opinion is not wrong on this issue. Indeed, there are major roadblocks to a sovereign Quebec. These difficulties have more to do with Quebec's achieving independence than with Quebec's being independent. Moreover, they will not be easily resolved. There are two major types of problems. Some are related to the process of negotiation: the "rest of Canada" will not get its act together easily, making it difficult to negotiate one-to-one with a Quebec government that is determined to get a deal. First, the federal government is a national government. Not only does it see Quebec as an integral part of its realm, it does not have the political legitimacy to act as an agent of the "rest of Canada" in a negotiation with Quebec. Any coalition of provincial negotiators, in turn, is likely to break down over the tough issues that must be resolved. There are no structures for one-to-one negotiations.

Furthermore, "Canada without Quebec" is a fantasy. That is, it is a relatively unstable federation that is bound to be dominated by Ontario. Putting such a federation together will be quite difficult. In any "withdrawal" negotiations and in any "association" negotiations, Quebec will face a weakly organized counterpart with a weak mandate (if it has any mandate). That does not bode well for the negotiation of a complex new arrangement. It also means that negotiations will drag on.

The debt hurdle

These arguments about the process of negotiation could be dismissed if the issues themselves were not so complex. It is likely that Quebec will insist on certain concessions from the rest of Canada. Such requests will inevitably lead to complicated difficulties. Let us consider, for example, a case where Quebec's demands are kept to a minimum.

Such would be the situation if Quebec unilaterally decides to pull out of Canada. Assume that the rest of Canada decides to be cooperative — and appoints Brian Mulroney as its chief negotiator. For numerous reasons, Quebec would not want to repudiate its share of the $400 billion federal debt — about $100 billion. Quebec would also realize that it could not assume such a level of new debt overnight. The national debt is not passive. Half of it is short-term, mostly on a 90-day basis. The other half has an average maturity of about seven years. The Quebec government can, in theory, support such a level of debt. But it will take five to ten years to develop a market for $100 billion of new Quebec securities.

Under such a hypothesis, the prognosis for the old debt is a common debt — that is, Quebec would still send regular payments for debt servicing to Ottawa. That is a very complex arrangement. One of the minor problems will be to determine what constitutes Quebec's share. Is it 25.5 percent — its share of the population? Is it 23.6 percent — its share of the GNP? Let us say that a percentage is agreed upon. Who should pay the $1 billion in premium that would result from the weaker security of a debt that is not fully backed by a Parliament with full taxation power? When such issues are raised, Quebec will realize that a negotiating team from a weakly organized "rest of Canada" could not easily sell a penalty of that magnitude to its unhappy membership.

The deficit hurdle

Let us assume the debt hurdle is cleared. Quebec will then face the deficit hurdle. Patriating federal spending in Quebec and federal fiscal revenue from Quebec and servicing the debt will cause the Quebec annual deficit to shoot from $2 billion to $10 billion. In the short run, the Quebec government does not have a market for such a huge level of debt — and it would take years to develop it. Financing 5 percent of GNP is not a mere detail. (Mere substitution of federal debt by Quebec debt is an unrealistic assumption: the short average maturity will allow easy escape.) Thus, under this scenario, Quebec will be tempted to demand a gradual transfer of federal responsibilities, stretched over several years, as it is the only option that is technically feasible. It is most ironic that the federal deficit and the federal debt are finally coming to the rescue of the country.

The currency hurdle

An independent currency for Quebec has also been proposed. I am a great believer in smaller currency areas. Indeed, if I had a magic wand, I would give Quebec *and* Atlantic Canada their own currency — for their greatest benefit. But the transitional difficulties of creating a new currency are horrendous. In fact, they make it almost impossible in a democratic society. (To their credit, Jacques Parizeau and the Parti Québécois have always rejected the option of a Quebec currency.)

Thus we can see four huge metaphorical mountains that must be climbed before arriving in the state of a sovereign Quebec: the deficit; the debt; the instability of a Canadian federation without Quebec; and the absence of strong structures to negotiate on a one-to-one basis with Quebec. As a result, we must give low probability to the attainment of sovereignty for Quebec in the next five to ten years.

The alternative: Fundamental restructuring

I contend, however, that eventual constitutional peace will only come from a drastic restructuring of the Canadian federation. The ultimate goal is to provide sufficient constitutional leeway to Quebec so that it accepts, in return, some federal links.

The breathing room that will satisfy Quebec will necessitate significant changes to the present setup. There must be a massive transfer of responsibilities in the areas of economic development, environment, manpower, social, and cultural programs. The list stretches from Radio-Canada to the withdrawal of the federal government from medicare. It includes a reduction of the federal role in the environmental area.

Such changes are still unacceptable to most Canadians. But until they occur, there will not be constitutional peace. No country can work if 20 percent of its population wants "out" — but cannot leave because the paperwork is too complex. So Canada will eventually change to accommodate its diversity.

Asymmetry will not work

I do not believe in asymmetric federalism. It engenders too many problems of equality and fairness. It also unleashes centrifugal forces that are impossible to contain — because other groups will also vie for a special deal. I thought that the failure of the Meech Lake Accord had taught a lesson to the promoters of special status for Quebec: an asymmetric arrangement cannot accommodate what would satisfy Quebec. The Canadian political system will never yield a stable agreement on a special status for Quebec.

A more viable alternative is a massive decentralization of Canadian federalism with provincial governments picking up responsibilities that are now handled at the federal level. In the Prairies and Atlantic Canada, interprovincial agencies would emerge in various sectors. The Atlantic provinces, for instance, would take over the Atlantic Canada Opportunities Agency. The transfer would be pervasive. National programs such as medicare, technology, housing, and the Canada Assistance Program would leave the federal domain. We would also need a vastly different equalization scheme to ensure that the four Atlantic provinces and Manitoba and Saskatchewan buy into such a decentralized arrangement. (Such a scheme would be neutral with respect to Quebec, moving Quebec from "have-not" status to "watershed" status.) We would also need to develop portability standards to ensure personal mobility. Finally, the federal Parliament and most current federal institutions would be maintained, although their role would be curtailed.

Decentralization will have wide appeal outside Quebec

Is such a restructuring politically feasible? My answer is "eventually". The present system does not work. Patching it together will not work either. On the other hand, Quebec will not dare to climb over its metaphorical mountains. Proposals for an asymmetric federalism will fade away. Meanwhile, the legitimacy of the federal government will sink to new lows. Having a weak coalition or minority government will just compound the difficulties.

As it becomes increasingly clear that the federal government cannot resolve the constitutional question, however, the constitutional issue will gradually shift from being a Quebec issue to being a Canadian issue. Decentralization will appear more appealing to many Canadians who are fed up with the status quo. Eventually, Western Canada, particularly British Columbia and Alberta, for example, will accept more decentralization of federal powers. Over the years, radical decentralization will emerge as the only commonsense solution.

A powerful center is not needed for economic growth...

Will it be the proper way for Canada? First, the economy. Federalism is not an essential condition for economic growth. Centralized federalism is even less of an essential condition. On the theoretical side, it is easier to defend the proposition that a strong federal government is bad for the economy than to defend the proposition that a strong central government is good for the economy. Empirically, the former proposition is buttressed by the tremendous success of the small European economies that perform, on the whole, much better than those of Germany, France, and Great Britain. In fact, the trend toward globalization erodes the effectiveness of national governments and of centralization in the economic realm. Supranational structures such as the European Community are the way of the future. We do need a federal government — but not necessarily one with the power of our present federal government.

...or for social justice and national identity

On the social side, there are people who believe that national standards are essential to keep Canadians honest and compassionate. This is a value judgment with little empirical basis. I contend that it is progress to decentralize the responsibility of caring for social ills. Decentralization would put that responsibility closer to the population. It is true that well-organized interest groups will fight decentralization. Their motives are far from pure: they are defending their power.

Finally, some people have argued that the Canadian identity would suffer from massive decentralization. The loss would be merely superficial. Government agencies and government grants do not make the country. If the Canadian character has to rely on the federal government for its survival, Canada is in deep trouble.

I am quite confident that Canada will move slowly toward a more decentralized structure, as this is the most natural way to abate the present tensions. I accept that there is also the probability — limited, but real — of special status for Quebec. If this happens, Canada will also keep moving toward decentralization. The national character will survive and, indeed, adapt very well to the decline of the Ottawa empire.

DAVID LAIDLER

Scholar-in-Residence, C.D. Howe Institute, and
Department of Economics, University of Western Ontario

Tying a Quebec dollar to the U.S. dollar

I recently wrote a commentary about the viability of a separate Quebec currency. That commentary was not specifically aimed at Quebecers. There are many good monetary economists in Quebec who know perfectly well that a separate Quebec currency is viable but that there would be serious problems in making a transition. They know that these problems of transition involve the establishment of the credibility of a new currency. They also know that the best bet for establishing the credibility of a new currency is to peg the new currency to an already existing currency in which the province is heavily indebted. In the case of Quebec, that currency could be the U.S. dollar. Economists in Quebec do not need me to tell them that. But many people in the rest of Canada need to know that a separate currency pegged to the U.S. dollar is a viable option for Quebec.

Many people in the rest of Canada opposed the Meech Lake agreement because it threatened their vision of the Canadian federation as a centralized welfare state. I believe that these people latched onto English-Canadian populist opposition to the "distinct society" clause and Bill 178. They used that opposition for their own political purposes in the correct belief that it would help them to defeat the agreement. They also believed that once the dust had settled, Quebec would see its own economic self-interest, accept the defeat, and continue with the status quo. I have always thought that they were dead wrong in their judgment of Quebec's reaction. In particular, they were wrong to believe that Quebec has no option but to remain part of the Canadian economic and monetary union. They were wrong to believe that this guarantees the survival of federalism.

The risk: Quebec may be driven to independence

I do believe that it would be "costly" for Quebec to leave the Canadian monetary and economic union and to refuse to negotiate a reasonable new economic association with the rest of Canada. But I also believe that people in the rest of Canada must become less intransigent about granting recognition to the cultural distinctiveness of Quebec society. Otherwise, they will drive Quebec into a declaration of independence. That, in turn, will lead to a nasty debate about sharing the federal debt — and, perhaps, to the establishment of a separate Quebec currency. That would hit both Quebec and the rest of Canada in the pocket. It is not a matter of saying: "Quebec will stay 'in' because it has to — and if it goes, let it go, because it is not going to make any difference to us." The rest of Canada has a large economic stake in not pushing Quebec into these directions.

THOMAS E. KIERANS

President, C.D. Howe Institute,
and Spicer Commission Member

Tying the Quebec dollar to the U.S. dollar — a brutal choice

First, it is an absolutely mind-boggling notion that Quebec could repudiate its share of the national debt and somehow maintain the same credit rating. As a former pragmatic practitioner, I tell you that it is not "on". Jacques Parizeau understands that as well as anybody.

Second, we have been circling the issue of optimal currency areas — and not coming to terms with it. In theory, you can fix a Quebec currency to the U.S. currency. In reality, why would anybody believe that

Quebec would keep its currency fixed there? After all, that is the most brutal, undemocratic clearing mechanism that you can impose on any society. Suppose that Quebec fixed its exchange rate to the United States — which is probably its optimum choice in the short term — to bolster the confidence of its citizens in the integrity of their savings and the confidence of Quebec lenders in the integrity of their loans. Suppose Quebec fixed its dollar at 75 cents to the U.S. dollar. Sooner or later, Quebec would get "knocked off" the level at which it first fixed its currency to the U.S. exchange — because the pressures on its people would be so great that it would be tempted to devalue. The pressures would be great because Quebec remains a commodity-based country. As soon as the terms of commodity trade went against Quebec, it would either have to devalue its currency or it would have to let other industries such as secondary manufacturers absorb the pressures. So why would anyone believe Quebec? It makes no sense in the long run.

Canada itself is not an optimal currency area. But we have a currency union for shared socio-political reasons that subsume the economic reasons. The currency union gives an accordion-like clearing mechanism to each region — which softens the blows of international impacts on the economy.

THOMAS J. COURCHENE
School of Policy Studies,
Queen's University

Quebec is unlikely to take the irreversible step

We must remember that economics is going to play a big role here. Robert Bourassa is an economist. Jacques Parizeau is an economist. Michel Bélanger is an economist. Jean Campeau is not an economist — but he ran the biggest economic agency in the government. Bourassa is not going to do anything that would imperil the future economic prospects of Quebecers.

I believe that Quebecers will come to realize what they have been able to do in this country: Quebec has been through two societal revolutions in the past 30 years — the Quiet Revolution and the Market Nationalism or "Disquieting Revolution". This is an incredible achievement. They have been able to flourish. But throughout this period, they have had no constitutional concession. The only provinces to receive recent constitutional concessions were Alberta and Newfoundland. Quebec has accomplished its achievements within the existing constitutional framework.

So Quebecers are going to have to ask themselves: "What is it that prevents us from another revolution in case we want to keep evolving?" I think they are unlikely to conclude: "Let us suddenly declare sovereignty." That step could be irreversible — and I do not think they are going to take an irreversible step.

RAYMOND BRETON

Department of Sociology,
University of Toronto

We should look at the independence phenomenon in Quebec as movement analysis. Those four mountains that Marcel Côté [Partner, Secor] identified may not necessarily slow down the process: some may actually accelerate it. The analogy to the mountains is not a bad image: if you are at the bottom, it may be slow to go up; but if you are already on top, it may be fast to go down.

The absence of a legitimate leader will open the door to extremists

Consider the growing polarization during Meech Lake: the increase of pro-sovereignty sentiments in Quebec was largely generated by extremists who were defining the agenda. I conclude that we should pay a great deal of attention to the audience for the upcoming constitutional debate — because that audience is going to be reacting very strongly to the debate. There is now, however, no English-Canadian spokesman whom both sides perceive as credible. The effects of that absence will increase exponentially. That is, the absence of a legitimate spokesman is going to make it possible for extremists to take over the stage in English Canada. Extremists in Quebec will, in turn, interpret those events as rejection. All matters of debt will become very secondary.

Many English Canadians no longer view Quebec as part of their community

We have also talked about the willingness to share and to redistribute. [U.S. social philosopher] Michael Walzer argues that any political community is basically established for communal provision to those who are deemed to be members. So membership is the first resource that is being redistributed. From what I understand here, a lot of English Canadians do not want to redistribute to Quebec. In the framework of Walzer, that means that they do not see Quebecers as members anymore. That, in turn, means that the claims of Quebec — and the idea that Quebec will have trouble bearing the transition costs of independence — will generate little sympathy in the rest of Canada. You can hear the language. You can imagine the scenario. We heard it during the Meech Lake debate.

I am afraid that those voices are going to dominate. Unless there is a central authority on the English-Canadian side that can control these extremists, they could become the central voice articulating the whole issue. So we must pay a lot of attention to the socio-political dynamics or the socio-psychological dynamics of the process. We should forget about economic levels. The process will determine the outcome — more than rational analysis.

WILLIAM WATSON

Visiting Associate,
Americas Society / Canadian Affairs

Quebecers feel the same way about English Canada

Raymond Breton spoke about the desire to redistribute. That is key. I believe that he is right when he says that there is not much desire to redistribute toward Quebec. Has there ever been any desire in Quebec to redistribute toward English Canada? If we get to the situation where neither major group is willing to redistribute to the other group and if we say that this is the criterion for being a country, why are we excited? Why don't we simply and calmly recognize that the country does not work anymore (if it ever did work). If we are very calm, I am sure that there would not be any adjustment cost. We would be like the two parties in a liberal divorce: we are out of love; we are not really interested anymore; let us make it easy and split the difference; let us come to an agreement relatively quickly.

I do not necessarily want people to make those decisions. But it is a very anti-populist, anti-democratic view that we are expressing here — that is, we as elites should impose a vision on the country that the people do not share.

ALAN CAIRNS
Department of Political Science,
University of British Columbia

The conflict is not between values but between identities

The premise of much discussion here is that citizens are willing to redistribute among a population that shares common values. But they are not willing or less willing to redistribute when values are geographically divergent.

I do not deny that there are differences in the approach to collective versus individual rights in terms of language policy. But I believe that this emphasis on values misconceives the issue. It is better viewed as an issue of identity. In the past 40 years, francophone *Québécois* and the rest of Canada have come much closer together in terms of values. We should first look at the 1956 Tremblay Report. [The Quebec government appointed the Royal Commission of Inquiry on Constitutional Problems under Mr. Justice Thomas Tremblay to study the distribution of taxes among the different levels of government, the "encroachments" of the federal government into the field of direct taxation, and the effect of those "encroachments". The report called for greater provincial autonomy, proposing that social programs be under provincial jurisdiction. It also proposed major fiscal reforms.]

Compare that report with the modern secular language of the Parti Québécois White Paper on sovereignty-association that was published in 1979. It is not values that have become more divergent — but identities. Growing similarity of values, in fact, coincides with the divergence of the francophone *Québécois* identity from the identity of other Canadians.

JENNIFER SMITH
Department of Political Science,
Dalhousie University

The decision about independence will presumably be made in Quebec. But as citizens outside Quebec, we also have to make a political decision.

English Canada's identity includes Quebec in Canada

Personally, I do not want to see an independent Quebec. I would regard that as the breakup of my country: to me, there is no Canada without Quebec. I consider this idea of a Canada without Quebec, whether centralized or decentralized, as a poor concept. I feel no commitment to that concept. There will quite a few people who agree that a Canada without Quebec is not worthy of commitment.

What can a person like myself do? I would like to see the political leadership in other provinces prepare two or three proposals that would be designed to persuade Quebec *not* to be become independent. One could be a decentralist proposal; one could be an asymmetrical federalism proposal. Those proposals would be controversial — but we have to put forth arguments that are meant to persuade. Indeed, we should view these proposals as an opportunity: through these proposals, for example, we could also try to answer the claims of aboriginal peoples. We need to get the arguments out there.

DONNA DASKO
Vice-President,
Environics Research Group Ltd.

Warning signals: The rest of Canada has other priorities

As English Canadians, we must organize ourselves. We are obviously confronted with a very perilous situation for Canada. We have to do something. Unfortunately, I do not think that this is a very good time for English Canadians to do anything about Quebec and the threat of Quebec independence. First, Canadians are really quite sick and tired of this so-called national unity debate. We see this, quite clearly, in the polling. They simply do not want to talk about it anymore. They are tired of it. They are concerned about the economy. We are in a recession. That, along with the environment, is uppermost in their minds. National unity has receded from the list of Canadian concerns. This mood is reflected in the difficulty that provincial governments are now having in coming to grips with the constitutional issue. They are having difficulty because their constituents are tired of this topic.

I see another warning signal: in this post-Meech period, there is, in fact, less support for forms of Quebec independence and sovereignty-association among English Canadians. In fact, they are now less willing than they were a year ago to entertain some forms of Quebec independence. It is almost as if English Canadians feel that they have won the Meech Lake battle: their victory is that they do not have to deal with Quebec for a while.

And they have repudiated politicians who seek an accommodation

It has been said that we need political leadership in English Canada to lead English Canadians along the path toward confronting Quebec independence. Let us remember what happened to the political leadership that did support the Meech Lake Accord. Ontario's David Peterson has been defeated. Alberta Premier Don Getty, Saskatchewan Premier Grant Devine, and B.C. Premier William Vander Zalm share the same low approval ratings among their constituents as Prime

Minister Brian Mulroney. We also know that Manitoba Premier Gary Filmon and Newfoundland Premier Clyde Wells, who were on the other side of the debate, share the opposite approval ratings among their electorates. So I am not terribly optimistic about the ability or willingness of English-Canadian leaders to lead the population on this issue. The population is simply not "there" now. This constitutes "throwing cold water" on what we are able to do. We are one of the elite groups in Canada: many like us will grope for solutions. But I do not think that English Canadians are with us.

JOHN BOSSONS
Department of Economics,
University of Toronto

The challenge is one of leadership

We recognize that we face a choice between two radically different versions of Canada: one, a Canada that has a more asymmetrical federalism but that retains all ten provinces; two, a country that has split. It is obvious what constitutes our preferred model.

In either case, it is crucial for Canada outside of Quebec to be able to deal with the pressures arising from Quebec's demands. I do not believe that we should regard the population's reluctance to deal with these matters as a constraint. We have to regard it as a challenge. If we are an elite, surely we have a responsibility to get people thinking in the right directions. If we simply accept that people are not interested, then we are saying that we, as members of the elite, are giving up. And if we give up, why shouldn't others give up? Our responsibility is to figure out how to get the country to contemplate the abyss. Then we must figure out how to build a bridge that crosses it.

ANDREW PETTER
Faculty of Law,
University of Victoria

Breaking the taboos of constitutional discussion

I am very aware of the constraints of the political culture. It seems to me that in English Canada, at least, we are locked into a certain pathology in our culture — and we are inevitably going to be one step behind. During the Meech Lake debate, for example, Newfoundland Premier Clyde Wells delivered an incredibly powerful message within the political culture, at least within the political culture of British Columbia. His message was that it was illegitimate to talk about the possibility of separation. But it *was* rational to talk about the possibility of separation when evaluating the Meech Lake Accord. That refusal left serious considerations out of the debate — and contributed to the denial of the Meech Lake Accord.

Now we are in a political culture in which we can talk about the possibility of separation. But it is seen as illegitimate to discuss its likelihood — even though that is probably what we should be doing. We have to take this possibility very seriously if we are going to influence events and have any influence in Quebec. But I do not think that the political culture will allow that discussion to take place. After the Bélanger-Campeau Commission report, we may be in a position where we can talk about the likelihood of separation. That, of course, is the time when we should be talking about institutional alternatives. By that point, I suspect that English Canada will probably have adopted a "take it or leave it" proposition as its optimal political response.

Thus I am really discouraged about our capacity to influence these events, not because we could not influence them: I believe that we could. But because I think that we are locked into a certain political pathology in which it is illegitimate to talk about the issue that we ought to be talking about. We are always going to be talking about the issue that we should have been talking about in the previous rounds.

REG WHITAKER
Department of Political Science,
York University

Have English Canadians written off Quebec?

Donna Dasko has pointed out that English Canadians apparently feel that Meech Lake was a victory — and that they are not ready to consider the consequences for Quebec. Alan Cairns [Department of Political Science, University of British Columbia] just whispered to me that there may be more than one way of viewing that feeling — even though English Canadians may not be ready to countenance this view. It may be, in fact, that English Canadians have passed the point where they really care all that deeply about Quebec. In that sense, they have written off Quebec. They may be more prepared than we believe to deal with that possibility.

JOHN BOSSONS
Department of Economics,
University of Toronto

The earthquake will overwhelm details like the debt

Marcel Côté [Partner, Secor] spoke about timing. It is very soothing to think that we have got four or five years. But I believe that it is naive and dangerous in the extreme to give any credence to that view. The notion that the difficulty in refinancing the debt is going to be a crucial determinant of the process is like saying, 13 months ago, that the dependence of Eastern Europe on cheap Russian crude oil is going to keep Eastern Europe from moving out of the Soviet sphere.

I go back to the notion of tectonic plates as the correct analogy: an earthquake breaks dams; the resulting flood is irresistible. How do you counter an irresistible flood with considerations about refinancing Quebec's share of the debt? I do not, in fact, believe that there is going to be any opposition in Quebec to the notion that Quebec must absorb its share. The only question is: What constitutes Quebec's share? I merely ask what is going to have more political importance: the notion that refinancing the debt is going to be difficult or the presence of 100,000 people demonstrating in the streets of Montreal?

PATRICK MONAHAN
Director, Centre for Public Law and Public Policy, York University

The issues are honor and dignity, not dollars

The key issue in the upcoming debates is not going to be economic balance sheets. Instead, the issues are going to be symbolic images, particularly ideas of honor and of dignity and of self-respect. The debate will be very simple. Within Quebec, it will be: "Is our dignity going to be respected? Is our self-respect going to be restored? Is our honor, which has been twice-abused, going to be redressed?" The Meech Lake debate was also about symbolic issues. It was not about the substance of the actual agreement. That is why the public face of the upcoming negotiations will be so important. Within Quebec, the debate will have to be seen as "paying something to Quebec." Outside Quebec, it will have to be denied that anything is being paid. That sets up a difficult problem.

Raising the stakes: The dangers of the double bluff

Second, English Canada is going to raise questions about Quebec's credibility. That is, English Canada will say: "We do not really believe that you are going to do this — even though you say that you are. We think that you are bluffing." People who want to advance the argument that Quebec is bluffing will seize upon the comments of such people as Marcel Côté. They will say: "We think that you are bluffing because you cannot really bear these transitional costs. You cannot go your own way. So we do not have to take you seriously." That would produce a dynamic akin to a high-wire artist who says, "All right. To show you that I am serious, I will take out the net from under the high wire." The removal of the net may boost the credibility of the person on the high wire in a symbolic way. But it also increases the danger. In this case, Quebec is on the high wire. But we are also on the high wire with them. Quebec will pull the net from under both of us. Then we will both be in a situation of greater risk.

This brings us back to issues of timing. Events are likely to go beyond the control of any political leader. In particular, once the Bélanger-Campeau Commission comes out with its proposals, there appears to be a limited amount of time within which Quebec can afford to say: "We can negotiate." That is, after a certain amount of time, the issue of Quebec's credibility would surface. If discussions go on for two years, for example, English Canada might say: "Perhaps these people should not be taken seriously." As a result, there will be a bidding war within Quebec to establish a time limit for negotiations. Beyond that time limit, action would have to be taken.

That is the structure of the debate. We need to try to avoid these scenarios. I am not quite sure how to do that. But I am quite sure that it will not be a question about balance sheets or about the refinancing of the debt.

JAMES ARNETT, Q.C.

Stikeman, Elliott

We must face up to the possibility of a Unilateral Declaration of Independence

We should consider a Unilateral Declaration of Independence as a very real possibility. From the standpoint of the *Québécois*, it may, in fact, be a good negotiating strategy. Even if it is not a negotiating position, there is a high risk that *Québécois* will be put in that position because they will not be able to extract the minimum conditions that they want from the rest of Canada.

I also think that time is probably on their side — and not on our side. We have a big problem: discussions such as this have not been allowable subjects in this country because people were afraid to even contemplate them. They felt that the mere discussion of a Unilateral Declaration of Independence would make it happen. They felt that they would sound like bigots if they talked about the possibility of negotiating with Quebec — as opposed to bringing Quebec into the nation.

As well, a Unilateral Declaration of Independence would be effective for Quebec. If Quebec makes the declaration, it would be just a matter of time before it established effective control over its territory. A lot of states would rush to recognize it. The rest of the country would presumably reject military opposition. In short, a Unilateral Declaration of Independence would be a successful policy.

As a result, we should be preparing, on an urgent basis, for how we are going to deal with a demand for outright independence — and for how we would deal with a Unilateral Declaration of Independence. We have bigger problems than Quebec has. The problem with the debt, for starters, is that it is on our books. Then there is the whole issue of territory and the whole issue of assets and liabilities. Are *Québécois*, for example, going to have the whole territory? As a country, we are kidding ourselves if we do not figure out a way to deal with this subject, in both an intellectual and a strategic political sense.

Quebec must be informed of the real costs of independence

There is also the chance that we could influence the current debate in Quebec in a positive way. We must deal realistically, not emotionally or antagonistically, to help Quebec see the enormous real costs of independence. I do not think that Quebecers are hearing about those costs. It is conceivable that we could influence the debate in Quebec if we start talking about the possibility that Quebec would not have the entire land mass or that Quebec would have to take its per capita share of the national debt.

RICHARD FRENCH

Government and Regulatory Affairs,
Bell Canada

But threats could backfire

One of the lowest forms of intellectual discourse is to bring the truth from the region or the interest group that you represent to the rest of Canada. I do not want to indulge in that. But I must comment on the understanding of the possible role that English Canada could play in the Quebec debate. One really ought to be extremely cautious about the premise that francophone Quebecers are going to be positively influenced by what might appear to them as an underestimation of their capacity to manage their own problems.

Pat Monahan got it right when he said that the issue is about dignity and self-respect. Raymond Breton got it right when he said that it is about status and about having your own government. The possibility of revoking the present provincial boundaries, for example, would provoke the worst irredentist nightmares that I could imagine. If an anglophone raised that possibility, it would multiply overnight the likelihood of an aggressive confrontation that would be in no one's best interests.

It is absolutely untrue that francophones cannot have a discussion among themselves about the costs. What English Canada could do is to prepare itself. In reference to Donna Dasko, I think that English Canadians could be led to reconsider the importance of the constitutional discussion through a strong argument about its relationship to their own economic self-interest.

WILLIAM WATSON
Visiting Associate,
Americas Society / Canadian Affairs

Quebecers have not faced up to the question of costs

Richard French said that it is possible to have a debate about the economic consequences in Quebec. But post-Meech Lake, that debate is not taking place. The party line — the national line — is that there are really no economic consequences for Quebec's economy: the economy is so strong and buoyant that it could withstand virtually any shock. That may overstate the situation. But I do not think that there is a legitimate debate, possibly because the economic consequences are not regarded as the primary concern anymore.

RICHARD FRENCH
Government and Regulatory Affairs,
Bell Canada

From sterile formulae to real needs

There is another problem that we have almost wilfully ignored: we cannot expect the electorate to understand issues when it lacks the vocabulary and the analytical categories to handle them. I come from a political constituency with one of the highest educational attainments in the country. But 90 percent of what we have said today is incomprehensible to the ordinary voter. We really have got to talk about how to talk about this. We have not done that. Our formulae are abstract and sterile. No wonder anglophone Canadians are turned off: fundamentally, the issue means nothing to them in their daily lives. We must link these real and important issues to something that can be comprehensible to a serious reader of *La Presse* or *The Toronto Star*.

J. PETER MEEKISON

Vice-President, Academic,
University of Alberta

"Henry and Martha" will make the final decisions

First, it is very interesting that emotion does creep into a group of academics. There have been "highs"; there have been words such as "patriotism". This could become quite exciting. Second, when I worked in the provincial government, I wrote a lot of Peter Lougheed's speeches. I would approach those speeches, of course, from an academic point of view. He would always remind me: "What will Henry and Martha in Rimbey think about this?" Richard French's point is very well taken. We have got to get the language that we use into terms that are understandable to the people who will, in the final analysis, make the decisions.

HARVEY LAZAR

Deputy Chairman,
Economic Council of Canada

The reform agenda extends beyond Quebec

I believe that the "Quebec situation" is galvanizing us to reexamine much that is wrong in the country. That is, if we did not have the current circumstances in Quebec, other issues would still have required a fundamental rethinking of the way that Canada functions over the next five to ten years. First, we have touched on the global forces. Specifically, in Canada, we have the north-south drive that comes out of the Free Trade Agreement. I viewed that agreement as a way for Canadians to say: "If we cannot compete with the United States, how can we deal with the rest of the world?" I still subscribe to that view. But one of the destabilizing forces in the country, politically, is the fact that much more that is economic is going to happen north-south than east-west. Hence, to counterbalance the continentalism that is embedded in our economic realities, we will have to strengthen the existing social, cultural, and political links that have an east-west axis. As well, we will almost assuredly have to invent new links.

Second, there is a "political economy" crisis. We must ask ourselves: What is there about Canada's political system that prompts politicians to believe that they can only get reelected by *not* balancing the books? The capacity for federal leadership has been emasculated by the deficit and the debt situation. Yet politicians persist in their actions.

Finally, there is alienation. We are familiar with Western alienation. It is linked, in part, to the fiscal mismanagement. But Western discontent goes deeper: consider the West's growing insistence on institutional changes that would more effectively protect and advance Western interests in Ottawa. As well, aboriginal alienation might also have been a sufficient catalyst to prompt Canadians to reexamine the fundamental political underpinnings of their country.

Let me return to the pressures from Quebec. Many people talk about an impending divorce between Quebec and the rest of Canada. When a couple divorces, however, both individuals do not continue living in the marital home. If the divorce is done efficiently, the two individuals are usually free to get on with their lives. If they choose, they can have nothing to do with each other. Thus the divorce analogy is misleading when applied to Canada. For one, we do not have two partners in Canada — that is, the mainly English-speaking provinces do not constitute a single entity, either politically or legally. Even if we could eventually overcome the lack of a single English-speaking counterpart to Quebec, the reality for Quebecers and other Canadians is that, unlike divorcing couples, we cannot change our address, our geography.

After a divorce, we would still have to share the same house

If the country does fragment politically, the individual successor states cannot ignore one another in the way that divorcing couples can ignore one another — except at a very large cost to their citizens. After all, there is a vast web of economic and other linkages between Quebec and the rest of the country. Political fragmentation would shatter a fundamental building block for those linkages. If that building block were not immediately replaced with an equally stable political arrangement for the Canadian political space, the transition costs could be very high and very painful. Yet, given the time horizons that some Quebecers are talking about, it is not obvious that it would be practical to develop radically different political arrangements.

Getting organized

That brings us back to the question: How does the rest of Canada organize itself to deal effectively with any number of scenarios? Alan Cairns [Department of Political Science, University of British Columbia] spoke of two games. Ian Stewart added a third game. People who live outside of Quebec have no single larger challenge than to figure out how they can best organize themselves to play these two or three games at the same time. They must have a position on each possibility. They must strive for the best outcome while also planning for "second-best" solutions. There is nothing in the constitution that tells us how to do it. A lot of the ideas at this conference have been conflicting: that is normal and natural. But there *is* a set of ideas here that we can build on. Over the coming months, we must focus on how the rest of the country organizes itself.

We should not be afraid of emotion

We ought to be led, in part, by emotion. We ought to be led, in part, by our sense of what Canada means to us. We should not focus exclusively on optimal currency areas or on optimal economic anything. I find it peculiar that economists make economic arguments and then they say: "speaking as a citizen." When they speak as a citizen, a different view of the world emerges. That is where their hearts are. The rest of Canada should not be afraid to be led, at least in part, by its heart.

KEN NORRIE

Clifford Clark Visiting Economist,
Department of Finance

I agree with the sentiment that economists have to go beyond market forces in this debate. But I am equally amazed at the lack of willingness among political scientists to consider the element of political competition. Political scientists seem to have little confidence in it. They seem to believe that political competition will not happen or that it will throw up unsavory results.

But there *is* political competition — and there *is* a political market. People from Quebec and Western Canada sense that this process is moving very quickly — and that they are being offered clear options by new political actors such as the Bloc Québécois and the Reform Party. So I am surprised that political scientists do not talk about this political competition as one of the ways to generate the answer to the question: Who speaks for the rest of Canada? As William Watson has said, there is a great opportunity for whoever wants to be the next leader in English Canada to start staking out ground and to start figuring out if there are regional preferences. I am surprised at the general absence of this notion from the discussion.

REG WHITAKER

Department of Political Science,
York University

Ken Norrie noted that economists seem to have more faith in the political process than political scientists. The problem may be the same problem that drove me out of economics — that is, there was a utopian notion that there existed a world of free competition. It was not really true in the economic world. It is certainly not true in the political world. That is the problem. It is not as if there is a free political market. It is an oligopoly — and it does not necessarily respond effectively to political demand.

KEN NORRIE

Clifford Clark Visiting Economist,
Department of Finance

First, economists do not believe that all markets are perfect. But they at least try to define why there are failure rates and, therefore, what they need to do. I would like to hear political scientists tell me why they do not think political markets are going to work. (I am quite prepared to believe that they might not work.)

Second, there is the whole new notion of contestable markets. Markets are probably more competitive than they might seem on the surface — if there is a reasonable potential for entry. In political matters, this is very much so: just ask the Alberta Tories. Markets are not as oligopolistic as you would think. I would like to know why you do not believe free competition is going to work.

WILLIAM WATSON
Visiting Associate,
Americas Society / Canadian Affairs

In the space of a year, we now have six parties — as opposed to three. So entry into that particular oligopoly is pretty easy if you have to differentiate a product. And people do have to differentiate a product.

Second, our primary article of faith is the self-interest of the actors. We are talking about politicians here. I rest my case.

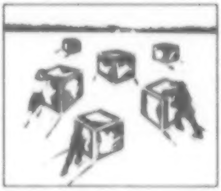
JOHN McDOUGALL
Department of Political Science,
University of Western Ontario

Political markets are working

Political markets are working. That is, the parties are already making adjustments to the new market. I presume that the Liberals have selected Jean Chrétien on the understanding that English Canadians will want to vote for a Canadian who loves his country straight from the heart — and who is going to give the same message that the Liberal Party has traditionally given. Another example, of course, is the increasing success of the Reform Party in the West. That party represents those in the West who feel that Brian Mulroney has failed to deliver on his promises to them. So the adjustment has been made. That does not mean that we should not be paying attention to how and to why these adjustments take place.

SESSION SIX

WHERE DO WE GO FROM HERE?



Needed: A clear and simple statement of the questions that must be resolved; a recognition that the answers will not be easy; a distinction between symbolism and substance; and bold leadership.

SESSION SIX:

WHERE DO WE GO FROM HERE?

The purpose of this session is to weave together the strands of the preceding discussion. It proves an elusive goal. Yet some clear messages are evident.

First, there is a need for simplicity and clarity. Despite the complexity of the issues and the arcane language in which they are debated, the basic questions are clear. Do we wish to remain a country? If we do not, what are the costs of transition? If we do, should we look to Ottawa or to the provinces? To equal provinces or asymmetry? Second, there is no single solution; we will have to integrate elements from many constitutional and nonconstitutional models. Third, the debate operates at two levels: symbolic and substantive. We need to make clear distinctions between them.

CHAIR:

THOMAS E. KIERANS

President, C.D. Howe Institute, and Spicer Commission Member

It is Sunday morning and we are meeting beside the Anglican cathedral. I just saw the Archbishop walk by in his robes. I am not sure whether we should follow him — or invite him to join us. Maybe we are the Canadian academic community at prayer. In any case, it reminds us that there is another reality outside this room. What we are discussing is no sterile academic exercise: it is about the future of a country that we all care about deeply. It is time to look ahead.

DESMOND MORTON

Principal, Erindale College,
University of Toronto

The emphasis on change should not blind us to continuities

As the lone historian at this gathering of social scientists, I have been denied my customary role of introducing a past that most of you know better than I — and of then retreating into discreet irrelevance. Historians have no claim to prophetic skills. Moreover, in an assembly of people making arrangements for imminent revolutions, historians have a professional bias in favor of stability over change. We know that the status quo is always in flux. But we tend to see weary continuities, whether in French-English relations, the fundamental problems of Eastern Europe, or Franco-German relations in the European Community. Hence, my unwonted silence in the presence of certified seers. I am not surprised that their respective prognoses are generally gloomy. I am relieved to discover that they disagree among themselves.

History, even at this late stage, may have some tired scraps of experience to add to the discussion. I am struck, for example, by the assumption that even a minimal Canadian federation would control defense and external affairs. Some years of studying French-Canadian attitudes in both domains suggest few areas of more durable dissension between the two communities — including the present responses to the Persian Gulf crisis. Given a professional disposition to foresee more continuity than change, I do not foresee a pan-Canadian unanimity in our perceptions of the world. On the contrary, multiculturalism will bring growing diversity in perception, expectations, and demands. It is not easy for me to see how even a minimal national government would operate happily in this area. In fact, I think that it is an area where Quebec would want to have fun.

We have more than winter in common

For all our emphasis on the evils and injustices of Canada to the poor, the young, women, and First Nations, Donna Dasko and Michael Adams [Vice-President and President, Environics Research Group Ltd.] have identified what academics too easily forget: an inchoate but powerful devotion to this country. We have more in common than our winters and a tendency to mumble in either official language: we have lived together as Canadians for 230 years or, as some will insist, for 23,000 years. With the exception of Switzerland and the United States, we are the oldest surviving federal system — and both of them have survived cruel civil wars. That is a lot of history to set aside. If you propose to do so without adding bloodshed to the transitional costs, we shall need more than a wringing of hands.

Peaceful secession is the exception, not the rule

Those who imagine that a national divorce is a matter of fiscal arrangements to be handled in a "mature adult fashion" ignore a lot of personal and collective experience. The separation of Norway and Sweden, achieved over two generations of bloodless acrimony, is neither typical nor geographically relevant. More typical was the partition of India or Ireland or the secession of the Southern states in 1861.

My own attitude to an independent Quebec is undoubtedly shaped by immersion at an impressionable age in the study of "Slavery and Secession" as my "special subject" at Oxford. Remember that the United States in the 1850s was also decentralized, misgoverned, and prone to let "our erring brothers go in peace." Instead, thanks to an unlikely national leader and an unexpected provocation when some idiots fired on a fort at Charleston, Americans were trapped in one of the bloodiest conflicts between 1815 and 1914.

I am going to be reassured that this example is highly irrelevant to Canada: this is a peaceable kingdom; we are all rational people. Still, the British North Americans tried to devise a federal system to avoid the slightest risk of such a conflict. They understood, as we must understand, that countries are not torn apart without releasing terrible and uncontrollable emotions. They created a country in which the new province of Quebec was geographically and economically integral and, as history has demonstrated, they gave the constitutional means for survival to *la nation canadienne-française*.

To look into the abyss of separation is to be convinced that change is imperative

Because my constitutional imagining tends to nightmares, my waking mind is open to change. Because I believe that the departure of Quebec confronts all of Canada with an abyss of horrors, I can accept much to preserve Confederation. Although the small, defensible changes of the Meech Lake Accord could not be swallowed, we shall have to accept more, not simply from the Bélanger-Campeau Commission, but from the West. Unjust and foolish though I believe it to be, I could even contemplate a Triple-E Senate.

We know that most Canadians cannot stand the prospect of another dose of a weary constitutional debate to which they can contribute little or nothing. However valuable our theorizing about optimum monetary units or asymmetrical federalism, a resumption of the old debate on familiar terms will guarantee a reciprocity of sour emotion and vicious deeds. Something more is urgently needed.

Nations are built on doing great things together

Nations, as [French historian] Ernest Renan reminded the French in the 1880s, are not built on a common language or a common territory. Instead, they are built by people who have done great things together in the past and who intend to do great things together in the future. Canadians have had great accomplishments in the past. Environics has shown their yearning to identify them: medicare, safety in the streets, public broadcasting, the great achievement of uniting a land from ocean to ocean to ocean. Yet to list those accomplishments is to remind ourselves how little any of them have mattered to governments or even to the trend-setting intellectuals of the past decade. The 1980s was a decade when, for good reasons and bad, we gloried in free market theory, the undermining of national institutions and individual fulfilment. Surely this is a core contributor to the national sense of malaise or the disillusionment with our political leaders?

So what do we do? We do have a government. This is our process — and I do not think that we should ever forget that the model has to come out of this process. Let us not assume that we can somehow invent some new ideal government. The most hopeful thing that I have heard is Ian Stewart's suggestion that one way out of our problems, either as Canada United or Canada Minus, is to think about agendas for positive national initiatives. Remember when France was losing Algeria. The French came to the conclusion that without their empire, they were finished. Yet the French discovered that there was life after Algeria. There was a future — and it was in Europe. Under President Charles de Gaulle and his successors, they played an important — but not entirely admirable — role in Europe. And that role has fostered the sense among the French that they have dignity and significance in the world.

And it is time to develop a new national vision

Whether Canadians can somehow accommodate a post-Meech Quebec within Confederation or whether we risk the abyss of separation, I believe that we need a national agenda that tells us what great things Canadians can do together. We need challenges that we can collectively meet and overcome. The broad outlines of a new "National Policy" will be apparent to us as we reflect on our social and economic failures. That agenda could include a renewed assault on hunger and illiteracy, a commitment to sectoral leadership in science and technology (for example, in biotechnology and in communications), and an overdue commitment to a full and fair resolution of First Nations claims on Canada. We need to come together, as we have on occasion in the past, to find some greater purpose than the news that we have repealed the *Official Languages Act*.

If most Canadians felt such a purpose, the accommodations that we must make in the next few years, with or without Quebec, would be more easily accepted. The negative bitterness of a broken national dream would be transcended in a new national vision.

ERIC KIERANS
Former federal and
Quebec cabinet minister

A neglected blueprint: The Pepin-Robarts Report

There is much that we can learn from our history. One of the finest documents on the Canadian constitution is the 1979 Pepin-Robarts report. Nobody talks about it. But it is very up-to-date. [The report recommended that language rights should be left to provincial jurisdiction rather than entrenched in the constitution. It also recommended the reduction of federal power and the replacement of the Senate by a provincially appointed Council of the Federation.]

Acrimony is no novelty

We should also recall the first federal-provincial conference after the Second World War — the 1945–46 conference — when the feds made their all-out grab for power. If you think that the rhetoric of the last few months has been dramatic, you should read those debates. [That conference failed to reconcile the growing claims of both levels of government to income taxation.] Although Quebec Premier Maurice Duplessis was given the credit for breaking up those debates, all that he actually said was: "If you intend to take control of everything, which is probably your purpose, I am going to get on the train and go back to Quebec." The statements that were really violent came from a host of other premiers such as George Drew of Ontario. Nova Scotia's Angus L. Macdonald actually screamed at federal Finance Minister James Ilsley: "You are going to make the provinces your puppies. The provinces will become mere annuitants."

BRYAN SCHWARTZ
Faculty of Law,
University of Manitoba

Solutions must be simple, understandable, and step-by-step

We should pursue solutions that are simple and understandable to the public. The approach should be to address one issue at a time and to slow down the pace. That is, if Quebec gives us 20 demands, let us start, for example, by negotiating jurisdiction over telecommunications. We should also feel free to structure arrangements by other means than formal constitutional amendments.

There are many ways of adjusting federalism without changing the constitution. We can tinker, for example, with institutions, with fiscal arrangements, and with intergovernmental agreements. Finally, the federal government must come to the table with its own affirmative agenda. Federalism can be rebalanced — but that does not mean one-sided decentralization. The federal government should have a set of simple, formal principles. It could insist, for example, that every devolution to the provinces must be counterbalanced by the centralization of another power or the application of national standards. As well, it could insist that the principle of the economic union should be respected in any areas that are devolved to the provinces. Finally, it could insist that national standards of health and welfare must be observed.

KATHERINE SWINTON
Faculty of Law,
University of Toronto

Incrementalism and informal changes are not sufficient

First, I suggest that incrementalism will not work in the present circumstances. Quebec is going to come forward with a package of requests. If we attempt to respond to those requests on a one-by-one basis, the process will simply break down.

I also disagree with the contention that we can adopt an informal deal as our goal rather than a formal amendment. It may be that we eventually settle for an informal amendment. But we must recognize that Quebec cannot *begin* negotiations with the goal of an informal amendment. Quebec needs the symbolic recognition of its status that comes with formal constitutional arrangements. And it needs the legal protection that comes from constitutional guarantees — rather than arrangements that can be changed through the will of governments.

MICHAEL ADAMS
President,
Environics Research Group Ltd.

The issues are simple; we should avoid drowning in detail

This discussion has become so complex that we will need a computer model to figure out how to change the constitution. Essentially, we are spending a lot of time on a lot of details — when some very simple things have gone wrong. From the public's point of view, the outcomes are not working. To the ordinary Canadian in English Canada, for example, the major public policy outcome that does not work is language policy. The Canadian people are asking: "Why don't they deal with that issue?" But it is the sacred cow of Canada. We do not seem to be able to deal with the issues in a way that makes sense to ordinary Canadians. Look at the "distinct society". It was symbolic of the pride and dignity of Quebec. It said: "We are a people, we have survived, and we want to do something." But English Canada could not accept it. We are spending a lot of time on substance when, in fact, it is the symbolism that is important.

We must also ensure that the political process is fairly simple. During the Meech Lake constitutional agreement, the leaders said to the people: "You can discuss it but you cannot change it." It does not take a rocket scientist to realize that you are insulting the dignity of every individual Canadian when you say that.

In summary, if we are trying to develop constitutional proposals, we should think about what will play in Peterborough and Jonquière. We need to think of things that are relatively simple — to which all Canadians can respond. We also need to understand the importance of symbolism — and how far that will get us. Finally, we need a simple political process: listen to the Canadian people, come up with a solution, hold a referendum.

ROGER GIBBINS
Department of Political Science,
University of Calgary

The simplest question: What price are we willing to pay to keep Quebec?

I attach a great deal of importance to the public opinion data — and to the need to simplify the options in a way that makes sense to the people. Various academics here have used the phrase "to pay the price". I believe that phrase constitutes the basic question that can simplify the debate.

From the perspective of Quebec, the basic question is: What price is the rest of the country prepared to pay to keep Quebec? The word "price" must be seen in terms of constitutional and institutional change — and it includes such things as a universally applied Charter. Outside Quebec, it is the same question: What price are we prepared to pay to keep Quebec? I cannot help the conclusion that the answers are depressingly clear: Quebec expects a significant price to be paid; people outside of Quebec are unwilling to pay a significant price. When we simplify the debate to that question, it is clear that the gulf is very large. I am not sure that we can build bridges across it.

JEAN LAPONCE
Department of Political Science,
University of British Columbia

A funeral or a birthday party?

I have had the strange feeling of being at both a funeral and a birthday party. If we had held this meeting seven months ago, I would probably have been among the minority: I was opposed to Meech Lake on the grounds that it did not give enough powers to Quebec — and thus it would not resolve the problem. Now I find myself overtaken by nearly all my colleagues who are contemplating separation as if it were in the cards. I do not think that it will come to that. Instead, we must consider something between Meech Lake and separation.

The problem has not originated because of Quebec's dissatisfaction with the economy. It has not originated because of Quebec's dissatisfaction with the social security system. Basically, the problem has originated because of Quebec's feeling that its culture and its language continue to be threatened.

Accept Quebec's cultural demands; keep the economic powers in Ottawa

Quebec will very likely approach the federal government with a set of demands for cultural powers and economic powers. I suggest the following response: there can be no negotiation over Quebec's demands regarding culture; all Quebec's cultural demands should be accepted. Ottawa should give the cultural field to the provinces — where it belongs.

That means, in effect, that the federal government will have to abandon its protection of the English-speaking community in Quebec. We must trust that Quebec will be good to that community. But we must give the power of some Swiss cantons to Quebec — that is, Quebec must have the power to prevent the existence of public or private schools in any other language than the language of the territory. That is a very significant power. It is one that must be granted to Quebec so that it can feel secure. I believe that Quebec will not use that power. But it must have it. After we have granted Quebec's requests in the cultural field, all other requests will be negotiable. Economic requests and requests for changes to the political system will be negotiable — because they are not at the core of Quebec's dissatisfaction with the present arrangement.

DESMOND MORTON
Principal, Erindale College,
University of Toronto

Pride is essential — but it could be our downfall

I wish that the issue were as simple as language and culture. I think that it is something much more dangerous and dynamic: pride and identity. There is a dangerous potential for pride in English Canada. And pride can lead to stubbornness and violence. The problem is so great that we must find ways to make people forget about their pride. Maybe the things that we did in the past were foolish or misconceived — but they had a national sense to them. We have not had that sense in the 1980s. There has been very little to make Canadians come together and feel good about themselves.

I must add that too much of Canada's constitutional discussion has been dominated by the pressure groups, each with its own narrow constitutional agenda and each unwilling or unable to perceive the interests of the whole. We need to find ways to get beyond these organized groups to bring together ordinary Canadians.

MARTIN ABRAMS
Assistant Secretary to the Cabinet,
Federal-Provincial Relations Office

We do not have all the facts on many key questions

I would argue that we still do not have all of the relevant facts on the table for many issues. First, Jean Laponce argued eloquently that we should give culture to Quebec. What does that mean? Does it mean that we should give them telephone poles? What does it do to the notion of integrating fabrics? Second, does the transfer of culture constitute the kind of further decentralization that we want? After all, perhaps we need common values to bring the country together.

Quebec must also decide what price it is prepared to pay

Third, we have talked about the impact of a Unilateral Declaration of Independence. There will obviously be a price to pay. The question is: What price is Quebec prepared to pay? Any country can put its bonds on the market. What matters is the rate that you must pay to borrow those funds. Fourth, we must ask if the population is willing to pay that price on a long-term basis. Fifth, we should not underestimate the internal problems that Quebec is going to experience during this process. It is pipe dreaming to think that there will be consensus among 7 million people over the Bélanger-Campeau report. Finally, the native population in Quebec is still a federal responsibility. If that aboriginal population makes a move toward greater sovereignty, there are fundamental issues that must be addressed.

JOHN CRISPO
Faculty of Management,
University of Toronto

The biggest obstacle to intelligent debate

You are ignoring the most dangerous, destructive, and evil force in this situation. I refer to the hyenas and jackals in the media. You all talk about the need to inform the public. I could not agree more. The public is appallingly unaware of what is going on. And the only way that you get to the public is through the media.

You think that I am crazy. But the media distort and twist everything. They sensationalize everything. They simplify everything. How do you inform the public about issues through this media? As the constitutional issue blows up, the media will seek out the most extreme people. They will not educate; they will not inform; they will inflame. They are the biggest single obstacle to an intelligent debate.

ANTHONY SCOTT
Department of Economics,
University of Ottawa

It is not the media that gets in the way. We often complain that there is not enough public interest in these matters. The fact is, however, that the public does not participate because it has no incentives to participate. There are no payoffs. The public wants to be consulted, not merely listened to. They want to see their influence on the final results.

STEFAN DUPRÉ

Department of Political Science,
University of Toronto

Fiscal federalism: A flexible tool

When I became a student of Canadian federalism in the 1950s, fiscal relations was the only game in town. There was nothing to study on the constitution: every five years, a few freaks from attorney general departments would worry about the amendment formula. But the constitution was where the action was *not*. Students of Canadian federalism in my era were really students of fiscal relations — where the action was.

Tremendous centralization was achievable and achieved — as it was during the Second World War. Tremendous decentralization was achievable. We discovered asymmetrical federalism in this country through fiscal relations, not through the constitution. So my first prescriptive point would be that we rediscover the opportunities that federal-provincial fiscal relations offer. All kinds of constitutional results do not require changing the constitution. Michael Trebilcock [Faculty of Law, University of Toronto] has designed a constitution that has education, health, and welfare at the provincial level. That does not require the change of one comma in the constitution. You could achieve it through fiscal mechanisms.

Jean Laponce has reminded us that cultural sovereignty may be number one on the Quebec agenda. It could be terribly easy to concede that point: you do not really need constitutional change. There has been so much entanglement between Ottawa and the provinces on culture. You could concede culture to Quebec, asymmetrically, through fiscal adjustments.

The "hyenas and jackals" — as John Crispo referred to the media — were too dumb to make the effort to understand federal-provincial fiscal relations. So perhaps the fiscal route is again the antidote to the hyenas and jackals.

I must add that there seems to be the tacit assumption that Quebec does not have a problem with its own hyenas and jackals. We must consider who resides on the other side of the divide: it is simply another bunch of Canadians, except they happen to be Canadians who reside in Quebec. They face the same problems of communicating with each other. They face very real problems among the options of decentralization, asymmetry, and monetary union. They have to calculate what the costs of these options may be. So why don't we start calculating these things with them? That, of course, takes me back to fiscal relations. Fiscal relations can do marvellous things to bridge some very artificial divides.

JEAN-PIERRE VOYER
Project Director,
Economic Council of Canada

But fiscal federalism may be less relevant and effective today

Stefan Dupré said that we could accommodate some change through a reorganization of fiscal federalism — without some form of constitutional review. That option is limited, however, by the extent that section 36 of the constitution enshrines some federal responsibility for regional equity. That federal responsibility requires a federal spending power that is sufficiently large to perform this constitutional provision. At present, the current tools for performing that provision are basically intergovernmental transfers — that is, the postsecondary and health-care transfers and equalization. The reorganization of those fields or the devolution of those fields to the provinces may clash with Ottawa's constitutional obligations under section 36.

Second, the important issues in Quebec are the cultural issues and the economic issues. The business community in Quebec, in a form of narcissism, gives the impression that Quebec has sufficient economic base to control its future. That is probably true — but it is not really relevant to the debate. Quebec will not separate to gain in terms of its standard of living. Instead, the language issue is at the core of the problem. I would suggest that it would be as important, if not more fundamental, to have a reorganization of the *Official Languages Act* than to have a reorganization of the federation itself.

Finally, everyone talks about the Bélanger-Campeau report as the starting point for the rest of Canada's response. That is not so. Instead, the starting point will be the way that the commission's report enters the Quebec political agenda — and the way that the party leaders formulate their response to it. That means that we have more time before we have to react to that report. Commission reports are meaningless unless they become part of the government's political agenda.

ANDREW PETTER
Faculty of Law,
University of Victoria

And it does not address the symbolic issues

The commitment to equalization, like all constitutional commitments, is meaningless. I do not think that it poses much of a constraint. Still, the problem with using fiscal federalism as a solution to the constitutional crisis is that it does not provide the required constitutional significance. The solutions of fiscal federalism *do* have adaptability, flexibility, and informality. For precisely those reasons, however, they do not carry any symbolic weight. Unless the solutions of fiscal federalism are married with a symbolic message, they do not provide what we need.

I have similar problems with those who make simple calls for decentralization that go beyond Meech Lake. That is tantamount to saying that Meech Lake was too small a price for English Canada to pay. I do not think that English Canada is ready to hear that Meech Lake was too small a price — given the fact that it has just decided that Meech Lake was too great a price.

We may need catharsis — whether catharsis has to take place through detachment and then, hopefully, through some form of re-attachment or whether catharsis can be accomplished through alternative strategies. We also need to create symbols. We could use language policy as a symbolic message that cuts through both English Canada and Quebec. But we must remember that all rational, constructive solutions will go nowhere unless we can attach symbolic messages.

THOMAS J. COURCHENE
School of Policy Studies,
Queen's University

Symbols are like crazy glue: They both unite and divide

The things that bind one person to Canada may be the things that drive away another person. One of my professors once said: "Does mortar hold bricks together or apart?" The crazy glue that binds us together also takes us apart. That is a danger: if we try to write symbols into the constitution, those symbols may pull us apart rather than hold us together. The substance part of these negotiations is easy. We could, for example, give them telecommunications right away. That is irrelevant with the new technologies anyway. On many questions, let them have the jurisdiction. After all, most of these powers do not have much significance in running a country in the globalizing world. If we simply reject the suggestions of the Bélanger-Campeau report and the Quebec Liberal Party report, then we will push them into declaring their independence.

HARVEY LAZAR
Deputy Chairman,
Economic Council of Canada

Accept a democratic decision in Quebec with generosity

I have attended some fiscal relations meetings over the years: I recall them as battlegrounds. Maybe you come out a bit bloody but friendly.

First, I get the sense that most people here — and probably many people within the country — would like to preserve as much of Canada as possible. Many people have talked about the fact that they have trouble contemplating Canada without Quebec.

Second, we all concerned about minimizing the transition cost — in the event that there is radical change. I am going to make the assumption (which is certainly not implausible) that Quebec is going to request radical change. What do the rest of us do? It is terribly important *how* the rest of Canada receives what Quebec says. It is difficult to use words such as "generosity" and "friendship" at a time when such events are occurring and dreams are being crushed. But let us suppose that the rest of Canada says: "You are exercising your democratic rights. Many of us regret it — but we wish you the best. Now let us talk." Imagine the psychological effect of that statement within Quebec. It would repudiate the notion that the rest of the country does not respect Quebec's right to determine its own future. It would indicate that the rest of the country wants Quebec to stay. It would eliminate the bitterness and vulnerability of centuries. In the end, it might lead to a mature accommodation.

RICHARD SIMEON
Department of Political Science,
University of Toronto

Breaking through the symbolic barriers

First, I agree that we need to be generous and open in our response to Quebec — and also in our response to other issues in Canada. There is some virtue in stating, at the outset, our acceptance of the aboriginals' right to self-government or of Quebec's right to self-determination. That might shift the debate from the language of grievance to the much more positive language of "what we want to do together." That, in turn, could grow into a long list.

We should put the issue of language aside — which is the first big barrier. We should also put the issue of status aside — through the upfront acceptance of the right to self-determination. With the removal of those two hurdles, we would have more chance of developing links among ordinary citizens and among such groups as women's groups and environmental groups. We would change the nature of the debate from an "un-building" process to a "building" process. That, in turn, may ensure that Michael Trebilcock's model for rebalancing federalism begins to look more, rather than less, feasible.

DONNA GRESCHNER
College of Law,
University of Saskatchewan

Reaching the grassroots on their own terms

What troubles John Crispo is the elite press. I am not convinced that the elite press is going to have much to do with popular sentiment at the very grassroots level. The paper that most influences aboriginals in Western Canada, for example, is *New Breed*. It is not *The Globe and Mail*. If we want to influence the shape of the debate, we have to get past political elites and press elites. Instead, perhaps we should be thinking about making videos for *Much Music*. We would have a much better chance of influencing public consciousness on important issues.

RICHARD FRENCH
Government and Regulatory Affairs,
Bell Canada

What kind of political dialogue might we expect with Quebec? My own experience indicates that there are some people who have status as

Few English Canadians have credibility in Quebec

family members in the debate within Quebec. There are few in this room who have that status. That is the fact. It has to do with nationalism and an ethnically based nationalist movement. Very few of us have been part of that type of movement. Until you have lived it, you cannot understand the degree to which we are disqualified from Quebec's discussion.

Prepare English Canadians for the coming dialogue...

That brings me to the point: What can you say to English Canada — because English Canada is your more logical constituency? What can you do? First, I believe that you have to appeal to emotion. You have to appeal to idealism. Donna Greschner observed that people use videos to represent their lives to themselves. That is a very good paradigm for thinking about how you want to get across ideas to people. It is not through listening to you; it is through such means as videos and cinema and rock and roll.

You also have to introduce categories of analysis and vocabulary that allow Canadians to discuss these issues in a more serious way. We are not yet able to supply that analytical framework and that vocabulary. But we can prepare for a political dialogue that seriously contemplates the notion of Quebec separation. That does not mean that we are predicting that Quebec is leaving. It does mean that we must "legitimize" the notion of a dialogue in English Canada that contemplates the possibility of Quebec's departure.

...and do not let organized interests hijack the agenda

Finally, the fiscal situation of the country has to be the centerpiece of any vision of the future. We have to stop this willing suspension of disbelief: we say, for example, that the federal government might be able to finance a universal day-care policy. That is nonsense. Instead, we should create a self-conscious constituency of people who are hostile to the hijacking of the Canadian agenda by single-interest groups and institutional interests. The basic weakness of our national fabric is that there is no counterpoint to this hijacking of the agenda by organized groups. You must generate that counterpoint. You must develop a vocabulary that addresses people's concerns. You must help people to recognize where their interests are being trampled. You must show that there is a genuine alternative. You have to make some connection with the people who regard videos as one of the most interesting aspects of their lives.

JOHN CRISPO
Faculty of Management,
University of Toronto

The crowded agenda

When Quebec tables its demands, we have to respond in good faith and we have to be reasonable. The problem is that Quebec's demands are not going to be the only demands on the table. Spokesmen for the aboriginal groups have been saying that there never should have been a Quebec round. I am sure that women's groups will say that women's rounds should come first. It really scares me. How reasonable can we be when everyone is going to come forward with demands?

CHRIS BREDT
Lecturer, Faculty of Law,
University of Toronto

Solutions will draw from many models

We are talking about models as if they are monolithic. The reality is that we are going to be drawing from a wide variety of models. There will be aspects of asymmetrical federalism; there will be aspects of decentralization; there may be aspects of regionalization; there may be aspects of increased centralization. We really need more analysis on a functional basis. As Stefan Dupré said, we need to start thinking about such things as fiscal federalism. I am making a plea to get beyond big models. Instead, we should get down to the functional analysis of the practical things that we need to consider.

ANTHONY CARELESS
University of Toronto

The virtues of eclecticism

Most post-Meech Lake diagnoses couch their remedies in terms of models of reassociation. I suggest that abstract modeling is less helpful to the current situation than a more eclectic, less neat, and less conclusive form of home-made remedy — that is, we should borrow here and there, moving gradually and being choosy about how we use constitutional language. Models possess symbolic and polar qualities. They are difficult to quantify, to disaggregate, to experiment with, or to implement incrementally. Their defenders point out that they are nonreducible because they are internally logical. That means, however, that they are ill-suited as a basis for negotiation.

Constitutions are not passive instruments. They secure social values — but they color them in the process. Like models, they may be a poor locus for negotiations. Peoples living within common space may pass through periods where their collective use of a constitution is in dispute. As the result, the sole reliance on a static constitution as a point of reconciliation is ill-advised.

Perhaps we should take an approach that would lower the stakes of confrontation — and improve the chance of results. Thus, any result would be a blend of different elements of many models (much like the "quasi-federal" origin of the nation); as well, formal constitutional reform would be coupled with nonconstitutional substitutes such as bilateral federalism, administrative federalism, and fiscal federalism.

The European Community — a dynamic process, not a static model

We could look to the European Community to find a productive way of proceeding. The EC's political and economic structure is incomplete. It lurches from crisis to crisis. Its politics are heavily executive-centered. Its representation is "weighted" — rather than equal. The residual powers are supernational; the autonomy of the member states is constantly diminishing. Given those problems, where is the appeal to Premier Bourassa? Perhaps it stems from the fact that the European Community and Canada share four facets of an uncertain future. The

EC's approach to those facets of its confederation may contribute a partial remedy to our reconfederation.

It deals with principles and objectives, not symbols and models

First, both Quebec and the rest of Canada must handle the volatile symbolism of claim and counterclaim. Symbolic claims concern matters of dignity, status, self-respect, and trust. The stating and trading of those symbolic claims have proven to be the rock of destruction in Canadian federalism. In contrast, the EC's political dealings are sensitive to the problems of symbolism: matters of state sovereignty, culture, and social policy are removed from the explicit focus of the new central or supernational government. The Community makes no structural or principled claims to these most sensitive elements: member states may act as if these functions are untouched.

In fact, the Treaty of Rome largely avoids the language of models. Instead, it operates on the basis of principles and objectives and mandates. Rather than set out abstract entrenchments of jurisdiction, the Treaty employs the concept of movement to a changed state within the parameters of a broad set of objectives.

A step-by-step approach would minimize the transition costs

Second, new confederations must minimize their transition costs. All parties to a post-Meech settlement likely share a common interest in low transition costs. The EC has developed through progressive levels — walking before running. European union has proceeded through distinct and often separate economic and political experiments in the following: free trade zones, customs union, common markets, fiscal union, labor mobility, common civil rights, single judicial bodies, a common parliament, common laws, common citizenship, and identical constituent unit rules. These steps suggest the merits of approaching change tentatively and on several fronts simultaneously.

We may also note that the EC is gradually shifting the locus of decisionmaking: it is moving beyond executive acts to the empowerment of a supranational parliament. As well, the very act of decisionmaking has been in transition: early Council decisions were likely to require unanimity over almost all issues. That veto is still available today — but the preferred practice is to employ a "qualified majority" vote or to simply take a "sense" of the meeting without a formal vote. The lesson for Canadians might be to employ "sunset provisions" in a reconfederation document. Those provisions would recognize, in early years, the need for assurance to the various parts. In later years, based on a record of trust, the document would move away from veto provisions toward common interests.

Building trust

Third, new confederations must build new ties of trust into the outcome — if only because we live on the same communal property. Constitutional relations are not likely to build "ties of trust" between federal and provincial actors. Instead, more functional topics would create a more productive "nothing is forever" climate. Then we could gradually try to get the accommodation right.

The Europeans may have found ways to make the decisionmaking process less draconian — that is, they have developed several ways of

Nothing is forever: The need for flexible decision-making rules

reaching a decision. The Europeans manage the twin pitfalls of "tyranny of the majority" or "tyranny of the minority". They have set up conditions that promote repeated attempts at agreement. First, they arrange a "weighted" representation for the vulnerable states — rather than representation based upon population. But most decisions must achieve more than 50 percent agreement. Second, they devise four different procedures to authorize executive decisions — depending on the issue. Third, a range of thresholds for agreement — including unanimity, 66 percent, 60 percent, 50 percent, and consensus — are employed. Fourth, voting in favor of a motion may require a lower level of agreement than the level that is required to explicitly defeat it. Finally, the dissenter may exercise a dissenting vote in various ways: it may be a veto based on vital national interest or it may be a dissent that is tallied in the weighted voting process or it may be only a voiced disagreement. There is also an elaborate procedure for reconciling disagreement among executive, legislature, and bureaucracy. That procedure gets as close as possible to the "nothing is forever" spirit. Progressive and self-imposed deadlines are more in evidence than final and formal deadlines. As well, there is considerable latitude in the impact of Council decisions. Community laws are classified as regulations, directives, decisions, or opinions; each classification requires different degrees of state compliance.

A fluid approach to sharing powers

Finally, the communities in new confederations must remain open to each other's claims. Redistribution must be accepted as a collective objective. We in Canada conceive of responsibilities and obligations in chunky, static blocks of jurisdiction that are formally embedded in the constitution behind a formidable amending formula. The reproduction of 11 sovereign parliamentary forms across Canada demands an equally sovereign allocation of powers.

In contrast, the EC's approach is more consciously fluid, dynamic, and hierarchical. The Treaty of Rome is not a division of powers. Instead, it is a framework document that sets institutions and mechanisms in place. The EC proceeds on the basis of formal principles and objectives. The down-side is an erosion of member-state autonomy and distinctiveness. The up-side is an acknowledgement of the unavoidable interpenetration of modern governments — which is also a Canadian reality. As a result, Europeans avoid sterile trips to court to settle claims.

The result of the Treaty of Rome is not stable, static, or secure. But it fosters a language of mutual recognition, progressive change, and a variety of forms of adjustment. Change can be incremental or sweeping. A preference for the status quo can be protected by the day-to-day reality of negotiations — as opposed to the periodic trip to court or a constitutional reform exercise. At the very least, the EC's approach may diminish the episodic high-noon encounters of grand visions. In contrast, Canada may have one of the most rigidly demarcated constitutions of any federation. I would argue that there is the potential for greater dynamism in a country that defines itself by a division of labor — rather than by a division of powers.

The approach in these four facets does not constitute a grand design. Instead, it is a less spectacular and multimodal response to Canada's ills. In the end, it may bridge the thought-ordering value of modeling with the practical and political need to maintain momentum when the schools of thought mire down.

MICHAEL J. TREBILCOCK
Faculty of Law,
University of Toronto

Building on Meech Lake: Toward a rebalanced confederation

I have been fairly depressed over the past two days by the struggle to get out of this *cul-de-sac*. The one glimmer of light that I see is to get back to Meech Lake. We should remind ourselves that, at one point, all ten provinces, the federal government, and both federal opposition parties were on-side. In the end, only two small provinces were opposed. Although I acknowledge that the general populace had become increasingly disaffected, I suspect that disaffection was as much due to process as substance.

I want to return to my model — which is not far removed from the Meech Lake model but which simply goes further. It is a decentralized model with respect to social, cultural, and language policies. But it does offer some positive goals for federalism that can be realized through constitutional reform. These goals, which I believe are appropriate federal functions, include: dealing with external economic relations, including addressing the Canada-U.S.-Mexico trade issue, the GATT, and the second round of free trade negotiations; dealing with internal barriers to economic integration and trade; and dealing with the issues of basic research, native people's issues, and environmental regulations.

Through this rebalancing of Confederation, we can accommodate increasing concerns about such issues as economic issues, lags in research and development, and the environment. At the same time, by granting new powers to the provinces, we can be responsive to concerns over differences in social, cultural, and language issues.

As a result, I am not sure that we can treat Meech Lake or some more radical version of Meech Lake as dead in the water. Indeed, on matters of substance, I would look for ways of perhaps pushing Meech Lake further. On matters of process, we need to think about how to get this alternative conception of federalism on the table — as a counter-option to whatever comes out of Bélanger-Campeau. We should also think of a process by which those two options can be presented and defended before the Canadian people. Eventually perhaps, we could hold a referendum in all provinces, including Quebec.

ROBERT YOUNG
Department of Political Science,
University of Western Ontario

Two motive forces drive Quebec independence. One is the old apprehension that the French language and culture will be lost unless the provincial state has full powers to preserve them. With the collapse of the Meech Lake Accord, this fear has been fueled by the sense that English Canada rejected Quebec's claim to distinctiveness. This apprehension, coupled with a positive pride in *Québécois* collective survival, has widespread support among Quebec's francophone population.

Language and culture drive Quebec independence; economic powers are secondary

The second force is newer. This is the argument that Quebec would have better economic prospects if it were to attain sovereignty or, at least, if it were to recoup extensive powers over the economy. This argument is composed of several strands: Quebec's balance of transfers with Ottawa is either zero or negligible; duplication and waste abound where governments compete; in the current global economy, a small, adaptable, and consensual society with a loyal business class and tailor-made public policies is more capable of success than the same society inserted into a larger unit where adjustment is slow, government is inefficient and policies must reflect interregional compromise.

The second argument — which is emerging from business and academic elements — does not command majority support. Labor will not buy the whole argument — because adjustment and competitiveness will often be achieved at its expense. As well, the argument has some internal inconsistencies. A sovereign Quebec, for example, would be unlikely to create its own currency. Thus there would have to be cooperation and compromise with Ottawa (or Washington).

Language is a symbolic red flag in English Canada too

Meanwhile, in English Canada, much of the support for radical and regional parties springs from opposition to bilingualism. Bilingualism is often seen as the product of Quebec demands — although it was really promulgated by the Trudeau Liberals as a means of ensuring that linguistic and political boundaries did not coincide. Federal language and cultural policy is a highly symbolic and emotive matter. Alienation from the central government is caused, in part, by the sense among anglophones that they have been excluded from influence in Ottawa.

In this atmosphere, the Bélanger-Campeau Commission will likely recommend massive transfers of socio-economic and cultural powers to Quebec. These demands will go far beyond Meech — and they will deeply shock the rest of Canada. Moreover, there is no process in place for responding to Quebec. The situation will be quite unstable and perhaps unmanageable.

So devolving power over language and culture may win approval from all sides

One solution is for the central government, unilaterally, to offer all jurisdiction over language, culture, and communications, broadly defined, to the provinces. Ottawa's exit from these fields should be accompanied by transfers of cash or tax points. Ottawa should simply get out of this business. It should only maintain a presence where the provinces request that bodies such as the Canada Council and policies such as radio regulation remain in place.

Another way to proceed would be to designate language, culture, and communications as areas of concurrent jurisdiction — but provincial law would be paramount. Quebec would recuperate these powers. Other provinces might not.

Whatever the method, every province would have full control over those matters which Quebec governments have always argued are essential for Quebecers' linguistic and cultural survival. The Charter of Rights' linguistic guarantees would be made subject to provincial law. Language rights would no longer attach to people but to places. If Albertans want unilingual traffic tickets or cereal boxes, they could have them. While the federal government would continue to function in two languages, its public face might be French in Quebec and English in the other provinces.

This is a radical proposal. But bilingualism has failed. It arouses resistance and anti-Quebec sentiment among substantial segments of the anglophone population. It is irrelevant or irritating to recent immigrants. It demeans native peoples. It has never been popular in Quebec, where Bill 101 has overwhelming approval. Most clearly, it has not blunted support for independence in Quebec. Instead, a consensus will emerge there for presenting more radical demands to the rest of Canada.

With language off the table, we can discuss other powers rationally

What are the advantages of the proposal? First, it removes the most inflammatory and symbolic issues, both in Quebec and in the rest of Canada, from the constitutional agenda. The rest of Quebec's shopping list can then be discussed in the neutral language of efficiency. Essentially, the questions will concern the optimal area of jurisdiction for particular government functions, given the current structure of the provincial, national, and international economies. Is it rational, for example, to have certain transportation systems regulated by Ottawa or the provinces? There is no reason to anticipate that a Quebec government will be particularly intransigent. Indeed, a "rebalancing" of jurisdictional responsibilities in both directions would be possible.

Second, public opinion could allow room for additional concessions to Quebec or to all provinces — if further negotiations show these to be necessary or desirable. This is because the English Canadians who most detest bilingualism believe that Quebecers foisted it on them. As a result, its removal would be viewed as a concession *by* Quebec — not as a concession *to* Quebec.

Third, support for outright Quebec independence would decline. The vast majority of *Québécois* want linguistic and cultural autonomy. There is no such consensus about the need for more power over the economy. Instead, ordinary Quebecers are financially conservative. It is doubtful that Quebec citizens are so estranged from the rest of the Canadian community that they would choose independence solely to gain a couple of points of GDP growth. Even if there is no great sense of attachment to Canada, sovereignty will not be chosen for material reasons: the purely economic short-term transition costs for Quebec would certainly outweigh the long-term gains in efficiency and growth.

It would undercut support for the Bloc Québécois and the Reform Party

Finally, there are clear political advantages for the established parties in undertaking this move. The greatest threats to the governing Tories (and to the Liberals and the New Democrats) are the Bloc

Québécois and the Reform Party. Both threats would be undercut with the transfer to all provinces of those powers necessary for Quebec to ensure its cultural survival. Ottawa would no longer be a target on these emotive issues.

The rights of linguistic minorities could still be protected

It might be objected that removing the federal presence and guarantees in this area means sacrificing the anglophones in Quebec and the francophones outside of Quebec. This is not true. There is no reason to believe that New Brunswick will ever abandon its formal bilingualism policy or that Ontario will cease to provide French services. Nor would it be obviously in the self-interest of a confident Quebec to restrict severely the privileges of its anglophone community.

Pierre Trudeau may haunt us still. His failure haunts us now. It may be time to abandon a vision of the country that many English Canadians and Quebecers have never shared.

JOHN BOSSONS
Department of Economics,
University of Toronto

Giving up on bilingualism perpetuates the two solitudes

I would like to comment on Robert Young's suggestion that we give up on bilingualism. It disturbs me that we would think about reducing bilingualism as a way of increasing communications between communities. That is an absurd suggestion. I recognize the symbolism. But what kind of message does that convey: that we really do believe in the two solitudes? That disturbs me a lot.

I would also like to ask how political parties at the national level can be involved in the process. The seeming irrelevance of the two major parties is serious because one would expect the response to the Bélanger-Campeau report to come from those parties. How do you deal with that? The new parties are a sign of the lack of national political health.

DOUGLAS HARTLE
Department of Economics,
University of Toronto

Research is needed to find out what Canadians have in common

Quebec has emphasized that it is a distinct society — with the implicit assumption that the rest of the country is homogeneous. I wonder just how different we are on fundamental matters. I am not talking about constitutional matters — but day-to-day living. French Canadians believe that they have a unique life-style. In contrast, I believe that they live the same as everyone else. What are the differences? We cannot manufacture symbols. That is how soap is sold. We need to do research to find out how different people are — if they are different — and what their preferences are.

RAYMOND BRETON
Department of Sociology,
University of Toronto

Beware of tinkering with the potent symbols of language

There are dangers in tinkering with bilingualism. Indeed, I want to caution against such apparently easy solutions as tampering with existing symbols. Symbolic solutions, especially symbolic solutions that deal with language, will not be easy to implement because they address fundamental issues about the kind of society that we want. Language, in particular, communicates symbols about that society. Language policy is also central to the management of the relationship between groups in society. This does not mean that we should not change language policy. We should realize, however, that changing such symbols will be a lengthy process.

The need for symbolic affirmation

As well, Western capitalist societies are economically developed but symbolically underdeveloped. For instance, we undervalue public rituals that would reinforce certain values that we cherish or certain elements of our collective identity. In Quebec, there is a greater sense of public ritual. That sense may be a remnant of the role of the Roman Catholic Church, where ritual plays an important role. I recently went to a meeting in Quebec: one aspect of the meeting was a ritual through which scientists were made to feel that what they were doing was important — not only from a scientific point of view but from the point of nation building. They were participating in a collective exercise. If we want to hold Canadian society together, we have to pay attention to its symbolic dimension — to the ceremonies, the rituals, and the artifacts that express the underlying ideals. We should mobilize the artistic community to renew our stock of these symbols. We should not be so anxious to abandon them — and to rely so exclusively on technology, science, and economics.

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Our federal system exaggerates differences

Federalism is supposed to be a political system designed to accommodate differences. But increasingly our version of federalism seems to do the opposite. We have a political system that seems well designed to identify, and to exaggerate, the few areas of conflict among Canadians. The fact is that surveys show that on most issues — such as the environment and social policy — there are, in fact, very few differences across provinces and language groups. The big exceptions are language and the perceptions of the political system itself. Somehow we must redesign our institutions to get those big issues out of the way. That would allow us to identify and to work together on the much larger range of issues on which we have broad agreement.

CONCLUSION:
THERE'S WORK TO BE DONE

This discussion has been a kaleidoscope of ideas, concepts, alternatives, options, possibilities, opportunities, dangers, approaches, and tools.

There are no final blueprints, but many promising sketches. The bewildering variety is an accurate reflection of the complexities that we face. But the range of alternatives is not unlimited, and here we conclude by highlighting a few of the primary threads of the discussion.

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More questions than answers

We end this conference with more questions than answers. It is clear that no single approach or theory can provide the criteria for redesigning the federal system. For some, the issues are largely symbolic and revolve around our definitions of political community. For others, the issues are economic and revolve around how we can reassign powers in order to permit Canadians to respond more effectively to global competition and other challenges. For yet others, the issue is the quality of democracy —both within our institutions and in the very process of designing them.

But the implications of these approaches for institutional design are unclear. One strong line of argument suggests that effective government and democracy will be better served by a more decentralized federalism, more responsive to the needs of individual citizens and local preferences. Others, however, seek to revive the more centralized model associated with the social democracy of the postwar period with its emphasis on redistribution and national standards. Debate over the structure of the federation cannot be disentangled from debate about the role, purpose, and capacity of governments in contemporary society.

Another fundamental question is whether to adopt "asymmetrical federalism", whether achieved through the constitution or through *de facto* political arrangements. Alternatively, should we continue to insist on the equality of all provinces? Most participants believe that some recognition of this principle of special status is a *sine qua non* of Quebec's continued membership in the federation. Other participants remind us that the Meech Lake debate demonstrated how profoundly most Canadians outside of Quebec reject special status. Squaring that circle is one of our most difficult political challenges.

Ordering the options: Two different lists

The discussion reveals another profound dilemma. The order in which most Quebecers view the options is the reverse of the way that most non-Quebecers approach them. Quebec's preferred options appear to be somewhere between asymmetrical federalism and sovereignty — with or without association. In contrast, the weight of opinion in English Canada is hostile to both of these options. Instead, the rest of Canada focuses primarily on a slightly modified status quo or on a limited degree of decentralization or rebalancing. In addition, institutional changes at the center, including Senate reform, are high on the rest of Canada's agenda — but of little interest to Quebec.

Like ducks in a shooting gallery

Another dilemma is that it is much easier to criticize proposals than to defend them: the conference has considered option after option — only to find them undesirable, politically impossible, or both. Perhaps the closest that the conference comes to consensus — though even this is not complete — is the view that the fundamental issues are linguistic, cultural, and symbolic. The division of powers on such issues as the economy and the environment are important — but secondary. The implication is that the most feasible alternative may lie in a devolution of primary responsibilities for language and culture to the provinces. That approach would be combined with a much more pragmatic assignment of powers and responsibilities in other areas. This new sharing of responsibilities would be driven more by the need for efficiency and flexibility than by concerns for identity, status, and power.

For some, the resolution of such questions requires major constitutional change. Others argue that the answers lie in incremental, nonconstitutional adjustments to language policy and fiscal federalism. Such adjustments would avoid the most contentious symbolic questions — and they might allow a wide variety of *de facto* arrangements suited to the interests of each group and province.

Leaning over the brink

Some participants believe that we are still playing the "federalist game". Others believe that the time has come to move on — to the "independence game". The difficulties of working out a renewed federalism are daunting. But they pale beside the economic, social, and political costs of disentangling Canada and Quebec — and of constructing a new framework for the rest of Canada.

Whatever alternatives we choose, it is clear that they must respond to the concerns of all Canadians and achieve the broadest possible consent and legitimacy. It is therefore essential to find creative ways of involving broader public participation, including perhaps referenda and constituent assemblies. But wide public participation carries its own dilemmas: to consult and to decide are two different matters. How do we avoid deadlock and disagreement? The citizens' role is most important at two stages: in freely expressing their opinions before governments formulate positions; and in ratifying agreements after governments reach them.

Big tasks, little time

This conference has shown how complex the issues are — and how much work, conceptual and empirical, not to mention political, needs to be done. But the discussion has also shown how little time we have — and how ill-equipped we are for these tasks. We must avoid sleepwalking our way to disaster.

Debate at many levels

The coming discussion will have to take place at many levels. As Quebec plans its future, the other provinces must clarify their own goals. We must also consider whether and how the rest of Canada constitutes a coherent economic and political entity. Simultaneously, we must ensure a continual dialogue with Quebec. That dialogue must recognize not only Quebec's distinctiveness as a political community, but also its shared participation in the whole Canadian community. Many participants are highly pessimistic about the ability of governments to conduct this multidimensional process. Much responsibility, therefore, rests with individual citizens and with the academic community. This conference demonstrates the rich toolkit of possibilities that we and others can use to construct a new Canada.

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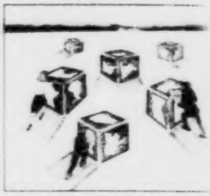
Toolkits and Building Blocks:

Constructing a New Canada

Richard Simeon and Mary Janigan
Editors



Canadians from coast to coast are debating their country's future. This book is the record of one brain-storming session. More than 50 leading academics and commentators draw on a wide variety of perspectives in a search for the blueprints and concepts, the processes and options, the tradeoffs and compromises, the toolkits and building blocks that are the raw materials for constructing a new Canada. The result is a lively, sometimes emotional, and always committed debate that will provide essential ideas and resources for citizens and leaders as they seek to reconstruct their country.

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ISBN 0-88806-277-X
ISSN 0832-7912
$19.95

9 780888 062772